FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

Public Service Responsibility of Broadcast Licensees

REPORT BY

FEDERAL COMMUNICATIONS COMMISSION

March 7, 1946

FEDERAL COMMUNICATIONS COMMISSION

Public Notice 95462

WASHINGTON 25, D. C., *July 2, 1946.*

Pursuant to suggestions which the Commission has received from many interested persons, several changes have been made in the definitions of terms as used in the Commission's report of March 7, 1946, entitled "Public Service Responsibility of Broadcast Licensees." These changes are four in number.

The first change makes it clear that a 14½-minute unsponsored program that is uninterrupted by a spot announcement is a sustaining program. The definition previously related to 15-minute programs. This change was made in recognition of the fact that most 15-minute programs are only 14½ minutes in length. The second change makes it clear that so-called network cooperative programs are to be recorded as network and not as local. Where a network cooperative program is not locally sponsored then it is to be computed as network sustaining. If there is a local sponsor it is to be counted as network commercial even though the sponsored announcement is read by a local station announcer. The third change relates to local live programs produced by the stations but which are recorded for later broadcasting. Under the new definitions such programs are to be counted as local live and not as recorded. The fourth change deals with so-called public service spot announcements. Hereafter this category will be called "noncommercial spot announcements."

Other minor changes have been made but are mainly editorial in nature. The new definitions now read as follows:

A *commercial program* (C) is any program the time for which is paid for by a sponsor or any program which is interrupted by a spot announcement (as defined below), at intervals of less than 14½ minutes. A network program shall be classified as "commercial" if it is commercially sponsored on the network, even though the particular station is not paid for carrying it—unless all commercial announcements have been deleted from the program by the station. Cooperative programs furnished to its affiliates by a network which are available for local sponsorship are network sustaining programs (NS) if no local sponsorship is involved and are network commercial programs (NC) where there is local sponsorship even though the commercial announcement is made by the station's local announcer.

(It will be noted that any program which is *interrupted* by a commercial announcement is classified as a commercial program, even though the purchaser of the interrupting announcement has not also purchased the time preceding and following. The result is to classify so-called "participating" programs as commercial. Without such a rule, a 15-minute program may contain 5 or even more minutes of advertising and still be classified as "sustaining." Under the proposed definition, a program may be classified as "sustaining" although preceded and followed by spot announcements, but if a spot announcement *interrupts* a program, the program must be classified as "commercial.")

A *sustaining program* (S) is any program which is neither paid for by a sponsor nor interrupted by a spot announcement (as defined below).

A *network program* (N) is any program furnished to the station by a network or another station. Transcribed delayed broadcasts of network programs are classified as "network," not "recorded." Cooperative programs furnished to its affiliates by a network which are available for local sponsorship are network sustaining programs (NS) if no local sponsorship is involved and are network commercial programs (NC) where there is local sponsorship even though the commercial announcement is made by the station's local announcer. Programs are classified as network whether furnished by a Nation-wide, regional, or special network or by another station.

A *recorded program* (R) is any program which uses phonograph records, electrical transcriptions, or other means of mechanical reproduction in whole or in part—except where the recording is wholly incidental to the program and is limited to background sounds, sound effects, identifying themes, musical "bridges," etc. A program part transcribed or recorded and part live is classified as "recorded" unless the recordings are wholly incidental, as above. A transcribed delayed broadcast of a network program, however, is not classified as "recorded" but as "network." A recorded program which is a local live program produced by the station and recorded for later broadcasting by the station shall be considered a local live program.

A *wire program* (W) is any program the text of which is distributed to a number of stations by telegraph, teletype, or similar means, and read in whole or in part by a local announcer. Programs distributed by the wire news services are "wire" programs. A news program which is part wire and in part of nonsyndicated origin is classified as "wire"

if more than half of the program is usually devoted to the reading verbatim, or virtually verbatim, of the syndicated wire text, and otherwise is classified as "live."

A *local live program* (L) is any local program which uses live talent exclusively, whether originating in the station's studios or by remote control. Programs furnished to a station by a network or another station, however, are not classified as "live" but as "network." A program which uses recordings in whole or in part, except in a wholly incidental manner, should not be classified as "live" but as "recorded." Wire programs, as defined above, should likewise not be classified as "live." A recorded program which is a local live program produced by the station and recorded for later broadcasting by the station shall be considered a local live program.

A *noncommercial spot announcement* (NCSA) is an announcement which is not paid for by a sponsor and which is devoted to a nonprofit cause—e. g., war bonds, Red Cross, public health, civic announcements, etc. Promotional, participating announcements, etc., should not be classified as "noncommercial spot announcements" but as "spot announcements." War Bonds, Red Cross, civic, and similar announcements for which the station receives remuneration should not be classified as "noncommercial spot announcements" but as "spot announcements."

A *spot announcement* (SA) is any announcement which is neither a noncommercial spot announcement (as above defined) nor a station identification announcement (call letters and location). An announcement should be classified as a "spot announcement," whether or not the station receives remuneration, unless it is devoted to a nonprofit cause. Sponsored time signals, sponsored weather announcements, etc., are spot announcements. Unsponsored time signals, weather announcements, etc., are program matter and not classified as announcements. Station identification announcements should not be classified as either noncommercial spot announcements or spot announcements, if limited to call letters, location, and identification of the licensee and network.

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PART I. THE COMMISSION'S CONCERN WITH PROGRAM SERVICE

On April 10, 1945, the Federal Communications Comsion announced "a policy of a more detailed review of broadcast station performance when passing upon applications for license renewals." [1]

The need for such a policy had earlier been set forth by Chairman Paul A. Porter in an address to the National Association of Broadcasters March 12, 1945. The Chairman stated:

> ". . . Briefly the facts are these: an applicant seeks a construction permit for a new station and in his application makes the usual representations as to the type of service he proposes. These representations include specific pledges that time will be made available for civic, educational, agricultural and other public service programs. The station is constructed and begins operations. Subsequently the licensee asks for a three-year renewal and the record clearly shows that he has not fulfilled the promises made to the Commission when he received the original grant. The Commission in the past has, for a variety of reasons, including limitations of staff, automatically renewed these licenses even in cases where there is a vast disparity between promises and performance.
>
> "We have under consideration at the present time, however, a procedure whereby promises will be compared with performance. I think the industry is entitled to know of our concern in this matter and should be informed that there is pending before the Commission staff proposals which are designed to strengthen renewal procedures and give the Commission a more definite picture of the station's overall operation when licenses come up for renewal."

A procedure involving more detailed review of renewal applications was instituted experimentally in April 1945; and this report is based in part upon experience since then with renewal applications.

The need for detailed review on renewal can best be illustrated by a series of specific instances. The cases which follow are *not* presented for any substantive light they may throw on policy with respect to program service. Part III of this report will deal with substantive program service matters. The following cases are set forth to show various occasions for detailed review on renewal rather than the principles in terms of which such review should proceed.

A. COMPARISON OF PROMISE AND PERFORMANCE: STATION KIEV

The KIEV case (8 F.C.C. 207) illustrates primarily the need for sound procedures to compare promises with performance when acting on renewal of licenses.

Under date of January 27, 1932, the Cannon System, Ltd., applied for a construction permit for a new standard broadcast station at Glendale, California. Because the quota [2] for the zone in which California was located had been filled, the Cannon System, Ltd., further requested that the facilities assigned to Station KGIX, Las Vegas, Nevada, be withdrawn, in order to make possible a grant of its application.

In prosecuting its application (Docket No. 1595), Cannon System, Ltd., represented that it proposed to operate the station as a civic project; that the central location of its proposed studios would be convenient for the program talent to be broadcast; that the applicant proposed to cooperate with the Glendale Chamber of Commerce and all the local civic, educational, fraternal and religious institutions in donating to them, without charge, periods of time for broadcasting programs of special interest to Glendale listeners; that one-third of the broadcasting time would be devoted to educational and semi-educational matters; that agricultural features would be presented and that programs would include local, state and national news items; that special features would be presented for the large Spanish population in the Glendale area; that 20 percent of all its broadcast hours would be devoted to sustaining programs of an agricultural nature; etc. It further represented that the lack of a broadcast station in Glendale discriminated against "the use of Glendale's excellent talent."

On the basis of such representations, the renewal application of Station KGIX was designated for hearing jointly with the application of the Cannon System, Ltd., for a new station. Following this hearing, the Federal Radio Commission found that "although the Glendale area now receives service from a number of stations situated elsewhere, there appears to be a need in that city for the purely local service, largely civic and educational in character, proposed to be rendered therein by applicant, Cannon System, Ltd."

With respect to Station KGIX, the Commission found that cutting its hours from unlimited to limited would permit the station "to render any substantial service theretofore rendered or proposed to be rendered." Accordingly, the application of the Cannon System, Ltd., was granted, and the authorized time of Station KGIX was cut in half in its renewed license.

On May 22, 1939, Station KIEV filed an application for renewal of its license and the Commission was unable to determine from an examination of the application that a renewal would be in the public interest. Accordingly, the application was designated for hearing [3] and was heard beginning December 7, 1939.

Commission inspectors had made recordings of the programs broadcast by the applicant on December 15, 21, and 27, 1938. On the basis of these recordings, the Commission found:

> ". . . On the first of these days the programs consisted of 143 popular records and 9 semi-classical records. There were 264 commercial announcements and 3 minutes of announcements concerning lost and found pets. On December 21, 1938, the programs were made

[1] FCC Mimeograph No. 81575, April 10, 1945.

[2] Under Section 9 of the Radio Act of 1927, as amended March 28, 1928, each zone and each state in the United States was assigned a quota, and new applications could not be granted, with certain exceptions, in a zone or state whose quota was already filled. Since the Fifth Zone quota was filed, KIEV was of the opinion that its application would be granted only at the expense of some other station, and hence requested the withdrawal of the facilities assigned to KGIX. A subsequent change in California quota facilities rendered this question moot. (*In re Cannon System, Ltd.*, F.R.C. Docket 1595, decided Sept. 23, 1932.)

[3] The issues in the hearing included the following:

"1. To determine the nature and character of the program service rendered by the applicant;

"2. To determine whether the station's program service has been and is now in conformity with the representations made to the Commission in support of the original application for construction permit or license, and all subsequent applications by the licensee. * * *"

up of 156 popular and 10 semi-classical records and were accompanied by 258 commercial announcements. Ten minutes were devoted to the lost and found pet column. On December 27, 1938, 165 popular, 12 semi-classical records, 10 minutes of the lost and found pet column and 199 commercial announcements made up the day's schedule. During these 3 days, which represented a total of 36 hours of broadcast time, only 23 minutes were devoted to programs other than records and commercial announcements.[4] The alleged policy of the station had been to limit commercial announcements to 160 announcements for each 10-hour day but it appears that the manager, employed on a commission basis, permitted a greater number to be broadcast. Even if the station's definition of a 'commercial,' which excludes time signals and introductions in the name of the sponsor, is accepted, the number of commercial programs on the dates recorded would be far in excess of those originally proposed.

"Further examples of the divergence between promise and performance are found in the following record facts. For a period of over a year no regular news was broadcast over the station. Little effort was made to promote any programs other than those characterized by purely commerical continuity. The musical portions were composed almost entirely of popular records. Each 5-minute program contains at least one commercial announcement and some recorded music. While the licensee made its station available free of charge to civic, charitable, fraternal, and educational organizations, it expended no substantial effort actively to assist and aid such organizations in the preparation and production of programs. As a result, programs of this character became in most instances mere announcements for such organizations." (8 F.C.C. 207, 208-209.)

The Commission's decision, dated September 25, 1940, set forth at some length its views with respect to "the disparity between the proposed service and the programs actually broadcast." It stated:

> "In the Commission's view the licensee of Station KIEV did not make a reasonable effort to make its programs conform to its representations. The disparity between the proposed service and the programs actually broadcast indicates such a disregard of the representations made as to cast doubt on their sincerity in the first instance, and, therefore, on the qualifications of the licensee. Furthermore, false statements of talent expenditures were made in successive renewal applications. The Commission, in the allocation of frequencies to the various communities, must rely upon the testimony of applicants and upon the representations made in original and renewal applications, to determine whether the public interest will be served by a grant of such applications. Faced here by such a disregard for representations so made, particularly upon the question of service to the public, the Commission is satisfied that a denial of the renewal application might well be justified. It should be noted that the emphasis is here placed upon the question of the truth of representations made to the Commission as a basis for the grant and renewal of a broadcast license. No adverse criticism is directed at the use of a proper proportion of high quality records or electrical transcriptions.
>
> "Upon all the facts, however, it has been concluded not to deny the pending application. The record shows that attempts to improve programs have been made. An additional member has been placed on the staff with the duty of arranging programs of a civic, educational and charitable nature. The percentage of time devoted to recorded music and to commercialization has been much reduced, and the remainder of the program schedule dedicated to diversified nonrecorded program material. News programs have been added and a 5-year contract entered into with the United Press. Religious programs are being prepared by the Ministerial Association. Local civic and fraternal organizations are being more actively assisted in the preparation of programs. To a substantial extent the public has come to utilize the transmitting facilities and the broadcast service.
>
> "There is, therefore, ground for urging that we may expect the present trend of improvement in program service to be carried forward. With some reluctance the Commission concludes that this application may be granted. The facts developed in this proceeding will, however, be given cumulative weight in dealing with any future questions involving the conduct of this station." (8 F.C.C. 207, 209-210.)

Despite the additional representations made in connection with its 1940 renewal, the KIEV logs for the week beginning April 23, 1944, show that more than 88 percent of its program time was still being devoted to mechanically reproduced music. Less than 3.7 percent of its program time—or 30 minutes a day—was devoted to the "talent" which the applicant assured the Commission was available in the community. This consisted of one singer who sang for 15 minutes 6 times a week, one pianist for 15 minutes on Saturday, one 15-minute school program, and a devotional program daily except Sunday from 6:30 to 6:45 a. m., when audiences, of course, are small. U.P. news was broadcast. The station's programs were still being interspersed with spot announcements on an average of one every 5.5 minutes. A total of 1042 spot announcements were broadcast during the week, of which 1034 were commercial and 8 were broadcast as a public service. A search of the week's logs fails to disclose any "duets, quartets, excerpts from operas, cuttings from great poems," or other special features originally promised when the Cannon System, Ltd., was seeking a license at the expense of Station KGIX. Nor does it reveal an adherence to the representations made in connection with its renewal granted in January 1940.

B. COMPETING APPLICATIONS: STATION WSNY

In the *Cannon System* case (KIEV), there was an element of competition between applicants, since the Cannon System proposed that the license of an existing station not be renewed. In the *Western Gateway* case (9 F.C.C. 92), the issue of two competing applications for a single available assignment was squarely raised.[1]

On December 8, 1939, the Van Curler Broadcasting Corporation filed an application for a new station to operate in Schenectady, New York, on a frequency of 1210 kilocycles, with power of 250 watts. A month later the Western Gateway Broadcasting Corporation filed a competing application for a new station in the same city, utilizing the same power on the same frequency. The two mutually exclusive applications were jointly heard.

Since both applicants specified similar or identical equipment and both appeared initially to be qualified financially and legally, the hearings were primarily concerned with the program representations of the two applicants. The Van Curler Broadcasting Corporation, for example, represented that it would regularly broadcast programs of the American Legion, the Schenectady Municipal Housing Authority, the Schenectady Council of Churches, etc.; that school programs for the city school system would be broadcast from 1:30 to 2 p. m. daily; that a local town-meeting program, patterned after the "American Town Meeting of the Air," would be broadcast Tuesday evenings from 8 to 9 p. m.; that a special line and studios would be installed at Union College for the broadcasting of its educational programs; etc.[2]

The other applicant, Western Gateway, also made detailed program representations—for example, that it would broadcast book reviews; a music appreciation series; a local "Radio Workshop" patterned after the CBS program of the same title; round table religious discussions embracing all religious faiths; programs of various local civic organizations, etc. The percentage of time to be devoted to each type of program was explicitly set forth.[3]

On the basis in part of these program service representations, the Commission on February 24, 1942, granted the application of Western Gateway and denied the application of Van Curler. With respect to the successful applicant, the Commission concluded:

> "Western Gateway Broadcasting Corporation is qualified in every respect to construct and operate the station proposed; it proposes to render a balanced program service comparable to that normally provided by local broadcast stations; and its proposed station would provide a satisfactory technical service throughout the City of Schenectady and the rural areas contiguous thereto." (9 F.C.C. 92, 101.)

With respect to the unsuccessful applicant, Van Curler Broadcasting Corporation, the Commission found that, "while this applicant has made a showing of the public-service programs, newscasts, transcribed features, musical clock programs, and time and other reports, it expects to broadcast, it has not adduced evidence as to its other program plans." Moreover, the Commission raised the question of credibility with respect to the representations made by the unsuccessful applicant. It noted that one of the directors had first testified that $5,000 which he had invested in the company was his own, and subsequently testified instead that it had been borrowed from a brother-in-law. Said the Commission:

> "In the performance of our duties we must, among other things, determine whether the operation of proposed stations, or the continued operation of existing stations, would serve public interest, and in so doing we are, of necessity, required to rely to a large extent upon statements made by station licensees, or those connected therewith. Caution must, therefore, be exercised to grant station licenses only to those persons whose statements are trustworthy." (9 F.C.C. 92, 102)

Examination of the logs of Station WSNY, the Western Gateway station, for the week beginning January 18, 1945, and a consideration of the statement concerning the public service rendered by Station WSNY filed by the licensee under date of May 24, 1945, in connection with its license renewal, warrant the conclusion that while a very genuine effort is being made by the licensee to serve the Schenectady area,[4] nevertheless, the station's present operations clearly fall short of the extreme representations made when Western Gateway was competitively seeking approval of a new station as against Van Curler. For example, Station WSNY represented that approximately 20 percent of its time would be devoted to programs presented by means of mechanical reproduction.

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[4] In originally urging that its own application be granted and that the renewal application of Station KGIX be denied, Cannon System, Ltd., had called attention to the fact that the KGIX programs were 75 percent transcribed or recorded, and had characterized this as "reprehensible and inexcusable." It appears, however, that the Cannon System programs on the three days monitored were more than 98 percent recorded.

[1] This need to decide between competing applicants is a commonplace in the standard broadcast band. It may be somewhat less frequent in the new FM band because of the possibility of a larger number of stations in most communities; but competing applications for FM along the Eastern seaboard and in other metropolitan areas are already on file with the Commission. Television will also in all probability give rise to competing applications for identical facilities.

[2] "The Schenectady Municipal Housing Authority would broadcast a weekly one-quarter hour program, publicizing its activities. The Council of Churches of Schenectady would cooperate with the applicant in presenting religious programs. The proposed religious programs consist of: A one-quarter hour morning devotional program, presented 5 days a week by local ministers; a one-quarter hour Jewish program on Saturday afternoons; morning church services, presented from local churches for 1 hour on Sundays; and Vesper services for one-half hour on Sunday afternoons. Definite arrangements have been made with the city superintendent of schools for the broadcasting of school programs from 1:30 to 2 p.m. daily. Arrangements have been made with the State Forum Counselor, assigned by the United States Office of Education, to the New York Council of School Superintendents to broadcast programs in connection with this group's work in promoting adult civic education. The broadcasts to be presented would consist of: A local town meeting program (patterned after the well-known program, "American Town Meeting of the Air"), which would be carried on Tuesday evenings from 8 to 9 p.m.; and three one-quarter hour programs each week. The Federation of Women's Clubs of Schenectady, representing some 38 clubs, would broadcast a one-half hour program each week during the seasons of the year when the clubs are most active. Definite arrangements have already been made for the presentation of some 43 programs by affiliates of the Federation. A one-quarter hour book review would be presented each week in cooperation with the city public library; and the applicant has also agreed to broadcast special announcements concerning the library. The City of Scotia would broadcast a weekly program devoted to matters of local interest to the listeners living in that community. The applicant has agreed to contribute to these groups the use of the facilities of the projected station, as well as professional production assistance, and to reserve specific periods of time on an immovable-sustaining basis for their regular programs." (9 F. C. C. 92, 100-101.)

[3] "The proposed station would be operated on the average of about 17 hours daily. According to the applicant's proposed program plans, time would be devoted as follows: Entertainment (51.41 percent), includes various types of music (presented by local and professional talent, records and transcriptions), drama, quiz programs, and broadcasts designed especially for the women (such as shopping and household hints, fashion comments, and advice on the care of children); educational (16.53 percent), includes safety programs, book reviews, a music appreciation series, a program entitled "Radio Workshop" (a local version of CBS program of the same title), patriotic broadcasts, dramatized historical events, local round table discussions, and others; religious (6 percent), includes a morning program of religious hymns (presented by talent furnished by local churches and schools), a daily devotional program conducted by local clergymen, round table discussions embracing all religious faiths, and Sunday services from local churches; agricultural (1.27 percent), includes market and other reports, Farm Bureau topics, Grange notices, and others; news (16.95 percent), includes during each day, 5-minute newscasts every hour, a 10-minute sports review, a one-quarter hour news commentary presented by James T. Healey, two 5-minute local newscasts, and two one-quarter hour news digests; civic (7.84 percent), includes programs concerning the activities of various local organizations and institutions, discussions of governmental and civic problems, and broadcasts designed to promote interest in the community, state and nation. Programs presented by means of mechanical reproduction would be broadcast for about 20 percent of the time. Material for newscasts would be obtained from a well-known news service and local newspapers," etc. (9 F. C. C. 92, 96.)

[4] With respect to its statements filed May 24, 1945, Station WSNY declares: "WE BELIEVE THAT NO OTHER STATION IN AMERICA CAN MATCH THE RECORD OF COMMUNITY INTEREST AND PUBLIC SERVICE BROADCASTING INDICATED IN THESE VARIOUS STATEMENTS."

An examination of the WSNY logs for the week beginning January 18, 1945, shows, in contrast, that 78 percent of the program time of the station is devoted to mechanically reproduced programs. At least some of the types of programs specifically set forth in the original representations do not appear on the program schedules less than 3 years after the station went on the air.

C. APPLICATIONS FOR INCREASED FACILITIES: STATION WTOL

The relation between the Commission's renewal procedures and its actions in connection with applications for increased facilities for existing broadcast stations is illustrated in the case of Station WTOL, Toledo. (7 F.C.C. 194.)

Station WTOL was originally licensed to operate daytime only; but in 1938 it applied for authority to broadcast unlimited time. In the hearing on its application, the station relied heavily on the need for added evening hours in order to serve local organizations in Toledo, and to make use of the live talent in Toledo after 6 p. m. The applicant represented, for example, that after 6 p. m., 84 percent of its time would be devoted to live-talent broadcasts; that the Toledo Council of Churches, the American Legion, the YMCA and "other worthwhile organizations" desired time over the station *at night*, and that the only other station in Toledo was unable to clear sufficient time for such programs because it was affiliated with a national network.[1]

The president of the licensee corporation testified as follows on direct examination:

> "Q. What is the purpose of this application for nighttime hours?
>
> "A. It is to give the people of Toledo an opportunity to have a station which can broadcast a great many events which can not at the present time be broadcast, because the only other station there is a regional station with a chain hook-up. For instance, we had during the summer civic opera which, by special permission of the Federal Communications Commission was broadcast. We have had a great many other musical occasions which could not be broadcast, although request was made by the managers of musical organizations for broadcasts. We have many important and interesting speakers who come to Toledo for dinner meetings, and other occasions, where there is a demand made for broadcasting, and these and other educational features can be carried if we have full time operation." (F.C.C. Docket 5320, Tr. 81-82.)

In granting the WTOL application for unlimited time, the Commission concluded:

> "Station WTOL is rendering a satisfactory local program service to the Toledo, Ohio, audience during daytime hours and a similar program service is proposed for the evening hours which is not now available from any radio broadcast station serving this area. The other existing station (WSPD) in Toledo is of a regional classification and does not adequately meet the local needs of the Toledo area during the evening hours. There is a need in the Toledo, Ohio, area for the service proposed by the applicant." (7 F.C.C. 194, 198.)

The WTOL application was granted on April 17, 1939, and eight months later Station WTOL, like the only other station in Toledo, became affiliated with a national network. By 1944 the "local" programs upon which WTOL had relied were conspicuous by their absence. During the week beginning November 13, 1944, for example, approximately 15 percent of the station's time was devoted to "live" broadcasts rather than the 62 percent originally represented. After 6 p. m., instead of devoting 84 percent of the time to local live broadcasts, as represented, Station WTOL devoted only 13.7 percent of its time to such programs. Nearly half of the "live" programs, moreover, were wire news involving no live talent other than the voice of a news announcer.[2]

In contrast to its allegations that time after 6 p. m. was sought for local public service, the station broadcast only 20 minutes of local live sustaining programs after 6 p. m. during the entire week—10 minutes of bowling scores and 10 minutes of sports news.

Throughout the week, 91.8 percent of the broadcast time was commercial. No evening time whatever during the week was given to the Toledo American Legion, YMCA, Boy Scouts, or any other local organizations which, according to the representations, desired time over the station at night.

Nor was the time after 6 p. m. filled with commercial programs of such outstanding merit as to leave no room for local service. From 6:15 to 6:30 p. m. on Tuesday, for example, a 15-minute program of transcribed music was interrupted by seven spot announcements—at 6:18, 6:19, 6:22, 6:24½, 6:25½, 6:26½, and 6:29 p. m. From 10:10 to 10:30 the same evening, a transcribed musical program entitled "Music Hall" was interrupted by 10 spot announcements in 20 minutes—at 10:15, 10:16, 10:20, 10:21, 10:22, 10:23, 10:25, 10:26, 10:27, and 10:29½ p. m.

D. TRANSFER OF CONTROL: STATION WBAL

In recent years, the purchase of an existing standard broadcast station has become a more common means of entering broadcasting than the erection of a new station.[3] The case of Station WBAL, Baltimore, illustrates the extent to which the service rendered by a station may be affected by a transfer or assignment of license to a purchaser, and the need for integrating Commission transfer and renewal procedures.

Station WBAL was originally licensed to the Consolidated Gas, Electric Light and Power Company of Baltimore, by the Department of Commerce. It began operations November 2, 1925.[2]

When the Federal Radio Commission was established in 1927, Station WBAL was one of many stations which sought to procure a "cleared channel," 25 of which were then being proposed. In support of its claim to a cleared channel, the station submitted "A Description of WBAL, Baltimore," prepared for the information of the Federal Radio Commission, August 1927. The "Description" stated:

> "Although WBAL is owned by a private corporation, its operation closely approximates that of a public enterprise."

The Station's program policy was described as follows:

> "WBAL has endeavored to be a distinctive personality among broadcasting stations. To attain this end its programs have maintained high musical and artistic standards. The Station's 'No Jazz' policy is indicative.
>
> "The Station Director is also head of the Baltimore Municipal Department of Music. The direct connections which the Director and various members of the musical staff have with the private and public musical activities of the City make possible a selection of the best artistic personnel, and provides a means of coordination which is seldom found possible. The Station has maintained its own features to a unique degree, until quite recently, over ninety percent of its programs being rendered by its own studio organizations.
>
> "In addition to the regular features of the Studio, the programs of the Station have included as a regular feature during the winter months, semi-weekly organ recitals from the Peabody Conservatory of Music, at which institution is located the largest single pipe organ south of New York. The Station has also broadcast each season, a number of the most important musical services from various churches throughout the city. During the summer these features were supplanted by outdoor programs from a permanent pick-up point in one of the public parks of the city, featuring two programs each week, one by the Baltimore Municipal Band, the other by the Baltimore City Park Orchestra. Programs of the Baltimore Symphony Orchestra and other orchestral and choral programs of city-wide interest have also been included in the station's broadcasting each season."

The station also employed regular musical organizations:

> "The following staff organizations which, in line with the policy of not referring to the Gas and Electric Company, are designated simply by the call letters of the Station, have been retained as regular features to insure a uniformly high standard of program. Some appear daily, others semi-weekly, or weekly.
>
> | | |
> |---|---|
> | WBAL Concert Orchestra | WBAL String Quartet |
> | WBAL Opera Company | WBAL Dance Orchestra |
> | WBAL Salon Orchestra | WBAL Male Quartet |
> | WBAL Ensemble | WBAL Mixed Quartet |
> | WBAL Dinner Orchestra | WBAL Trio |
>
> "From the personnel of the various organizations is also drawn talent for special presentations, such as continuity programs, musical scenarios and programs for special events."

The competition among the several hundred stations then on the air for the 25 proposed clear channels was very strenuous, and the Commission made it clear that "superior programs" would be one test, or perhaps the principal test, of eligibility.[3]

On November 20, 1934, application was made for transfer of control of the WBAL Broadcasting Company from the Consolidated Gas, Electric Light and Power Company to American Radio News Corporation, an absentee holding company. An amended application was filed December 1, 1934; and the transfer was approved, without a hearing, on January 8, 1935. At that time, no representations concerning program service were required of transferees, so that the purchasers were able to enter broadcasting without the representations which would have been required had they applied for a new station. Currently, transferees are required to state whether the transfer will affect the service, and if so, in what respects.

An examination of the program logs of Station WBAL for the week beginning Sunday, April 23, 1944, shows that its present mode of operation is in marked contrast to its operation described above under the previous licensee.

Thus, during the week beginning Sunday, April 23, 1944, only 12.5 percent of the program time between 8 a. m. and 11 p. m. was sustaining. On Monday through Friday of that week, less than 6 percent of the program time between 8 a. m. and 11 p. m. was sustaining, and no sustaining programs whatever were broadcast on those days between 2 p. m. and 11 p. m.—a total of 45 hours.[4]

Between 8 a. m. and 11 p. m. of the week beginning April 23, 1944, Station WBAL broadcast 507 spot announcements, of which 6 were sustaining public service announcements. An example—not unique—of the piling up of spot announcements is found in the 45-minute period from 8:15 a. m. to 9:00 a. m. on Monday, April

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[1] "The applicant's proposed weekly program schedule was admitted in evidence, and shows, among other things, that approximately 35.5 percent of the station's time will be devoted to news, drama, education, religious, civic, and sports broadcasts, and the remaining 64.5 percent will be devoted to musical entertainment, approximately one-half of which will be commercial broadcasts. The program service proposed appears somewhat similar in character to its existing service, except that a greater percentage of the total time will be devoted to the use of live talent broadcasts. Approximately 62 percent of the station's time will be devoted to broadcasts using live talent and after 6 p.m. live talent will be used approximately 84 percent of the time. * * *

"The policy of the station has been, and will continue to be, to give free time to the Toledo Council of Churches for religious broadcasts. This organization desires time at night over Station WTOL. The station has also cooperated with the municipal and county governments and the various agencies of both the State and Federal Governments in giving free time on the station and this policy will continue. The station has given free time to the Toledo Post of the American Legion, the Y. M. C. A., Boy Scouts of America, and other worthwhile organizations. These organizations desire time over the station at night and will cooperate in furnishing program material for broadcasts. Station WSPD is at the present time affiliated with the National Broadcatsing Company and has been unable to give sufficient time to these organizations at night." (7 F. C. C. 194, 196-7.)

[2] For discussion of "wire programs" as distinguished from "local live" programs, see "Uniform Definitions and Program Logs."

[3] During the four years 1941 through 1944, inclusive, 98 new standard broadcast stations were licensed, while 110 were assigned or transferred in toto, excluding merely formal transfers or assignments involving no actual change of control.

[2] The station began broadcasting with the following statement by the president of the then licensee corporation:

"It is my privilege on this, our opening night, to dedicate this new radio station to Baltimore and Maryland, and to the service of their people in such ways as may be found most useful to them. This station is to be known as 'Baltimore', and it will be so designated and referred to in the future announcing and operation. The company which has financed its construction and will operate it now dedicates it to the public service of this city and Commonwealth. It will be satisfied to participate along with all others in this great community in such progress and advantage as its operation may bring forth. After tonight the name of this company may not be heard in the announcements of this station, nor is it proposed to commercialize its operation."

[3] Thus on December 5, 1927, Commissioner O. H. Caldwell wrote to the Mayor of Baltimore:

"The members of the Commission have asked me to acknowledge yours of December 1st., and to assure you that *the Commission desires to facilitate in every way the presentation of good programs* to the people of Baltimore through the local stations.

"If there are any channels now in use by other stations to which any Baltimore station feels better entitled, *by reason of superior programs*, the Baltimore station has but to make application, and after a hearing has been held, at which both sides will be given an opportunity to present full testimony, the members of the Commission will endeavor to assign the channel in the best public interest." (Emphasis supplied.)

[4] As used in this paragraph a "commercial" program is any program which is either paid for by a sponsor, or interrupted more than once per 15 minutes by commercial spot announcements. A 15-minute program preceded, followed, and interrupted once by commercial spot announcements is nevertheless classified as sustaining. For the Commission's proposed future definitions of "commercial" and "sustaining" programs, see "Uniform Definitions and Program Logs". For a discussion of the importance of and need for sustaining programs, see below, pp. 12-36.

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24, 1944, during which 16 spot announcements were broadcast or one every 2.8 minutes.

Less than 2.5 percent of the station's time between 8 a. m. and 11 p. m. during the week was devoted to sustaining programs of local live origin. The only live sustaining programs carried during the entire week, 8 a. m. to 11 p. m., were as follows:

News at various times	95 minutes
"Gif-Ted Children", by remote control, Saturday, 9:45-10:00 a. m.	15 minutes
"The Family Hour", Saturday, 10:15-10:30 a. m.	15 minutes
"Musical Maneuvers", Saturday, 2:00-2:30 p. m.	30 minutes
Total live sustaining for the week	155 minutes

Station WBAL devoted 9 hours and 50 minutes to religious programs during the week—only 30 minutes of which was on a sustaining basis. The remaining 9 hours and 20 minutes were paid for by the religious organizations involved.

Station WBAL carried no forum or round table discussion-type program, either local or of network origin, during the week. The University of Chicago Round Table was made available to WBAL by NBC; but WBAL carried instead two transcribed commercial music programs and two 5-minute commercial talk programs.

The extent to which Baltimore has long been a world-renowned music center is noted above. During the entire week in question, the only local live music broadcast by Station WBAL between 8 a. m. and 11 p. m. was as follows:

A 10-minute "Music Award" commercial program.
"Musical Maneuvers", Saturday, 2:00-2.30 p. m.
"Songs of Romance", commercial, at various times, totalling 50 minutes for the week.

The National Broadcasting Company designates certain of its outstanding sustaining programs as "Public Service Programs": These programs were until 1945 marked with an American shield on its program schedules. During the week beginning April 23, 1944, NBC designated 19 programs as "Public Service Programs". Of these, Station WBAL carried five[5] and failed to carry 14. The 14 NBC "Public Service Programs" not carried and the programs carried by WBAL in lieu thereof are shown below:

[5] "Here's to Youth," "Doctors at War," "American Story," "Army Hour," and "Catholic Hour," all half-hour programs.

Time	NBC Public Service Program	WBAL Program
Sunday		
9:15–9:30 a.m.	"Commando Mary"—War Work for Women.	"Good Tidings Hour". Reverend Peters, commercial program.
10–10:30 a.m.	"National Radio Pulpit"—Reverend John Milton Phillips of the Grand Avenue Baptist Church in Omaha, Guest Speaker; Radio Choristers. Direction George Shackley. (From WOW, Omaha, and New York.)	10–10:05, News; 10:05–10:30, "Sunday Morning Roundup", transcribed music with four spot announcements for Anderson Motors, Fava Fruit Co., Four Besske Brothers, and Cactus Pills.
1:15–1:30 p.m.	"Labor for Victory"—Congress of Industrial Organizations; guest speakers.	"Willis Jones", commercial program sponsored by the Willis Jones committee.
1:30–2:00 p.m.	"University of Chicago Round Table Discussion"—guest speakers.	1:30–1:45, transcribed commercial music; 1-45–1:50, commercial talk, "Listen, Motorist"; 1:50–1:55, transcribed commercial music; 1:55–2:00, "Stay Out of Court," commercial talk.
4:30–4:55 p.m.	"Lands of the Free"—"Indians of the North". Drama: Inter-American University of the Air; guest speaker (from Canada).	"Women of the Week", local commercial, drama, sponsored by the Schleisner Company.
11:30–12:00 mid.	"The Pacific Story—Hirohito: Eclipse of the Son of Heaven". Dramatization. (From Hollywood.)	"The Open Bible," commercial program sponsored by the Hamilton Baptist Church.
Monday		
12:30–1:00 p.m.	"U. S. Navy Band" (from Washington).	12:30–12:45, "Masters of Rhythm", transcribed music with six spot announcements; 12:45–1, "Treasury Salute", transcribed music.
Tuesday		
12:30–1:00 p.m.	"U. S. Coast Guard on Parade" (from WTIC, Hartford).	12:30–12:45, "Masters of Rhythm", transcribed music with six spot announcements; 12:45–1, "Treasury Salute", transcribed music.
11:30–12:00 mid.	"Words at War"—dramatized stories.	11:30–11:45, "Open Bible", commercial transcribed program sponsored by Hamilton Baptist Church; 11:45–12, "Treasury Salute", transcribed music.
Wednesday		
12:30–1:00 p.m.	"U. S. Air Force Band"—Capt. George S. Howard, Conductor, (from Washington).	12:30–12:45, "Masters of Rhythm", transcribed music with six spot announcements; 12:45–1, "Treasury Salute", transcribed music.

Time	NBC Public Service Program	WBAL Program
Friday		
12:30–1:00 p.m.	"U. S. Marine Band" (from Washington).	12:30–12:45, "Masters of Rhythm," transcribed music with six spot announcements; 12:45–1, "Treasury Salute", transcribed music.
Saturday		
1:30–1:45 p.m.	"The Baxters Invest in Health", drama; National Congress of Parent and Teachers Associations.	1:30–1:35, "Latest News"; spot announcement for Arrid deodorant; 1:35–1:45, "Behind the News".
1:45–2:00 p.m.	"War Telescope"—John MacVane from London via shortwave.	"Front-Page Drama," electrical transcription, commercial program sponsored by Sunday *American*.
6:00–6:30 p.m.	"I Sustain the Wings"—Army Air Force Band, Capt. Glenn Miller conducting.	6–6:05, "Esso News", sponsored by Standard Oil Co.; 6:05–6:15, "National Sports", sponsored by National Beer Co.; transcribed spot announcement for "Whiz Candy"; 6:15–6:30, "Paul Robertson Talk", political speech.

E. REPRESENTATIONS MADE IN COURT: STATION KHMO

The *KHMO* case (4 F.C.C. 505; 70 App. D. C. 80) is of interest because it involves an element of judicial review, and a comparison of representations made in court with present performance.

The Courier Post Publishing Company of Hannibal, Missouri, now the licensee of Station KHMO, originally applied for a new station at Hannibal in 1936, as did a competing applicant. The Commission, after a hearing, was unable to find that a need existed for a local station in Hannibal and accordingly both applications were denied.

On appeal to the U. S. Court of Appeals for the District of Columbia (70 App. D.C. 80, 104 F.(2d) 213), the Court found that the Commission was in error, and that a need did exist for a local broadcast station to serve the particular local interests of the Hannibal community. Speaking through Judge Vinson, the Court noted (pp. 82-83) that service was available from other stations, but that "none of these stations provide for the local needs of Hannibal." The Court cited a Commission definition of a local station as one which would serve "to present programs of local interest to the residents of that community; to utilize and develop local entertainment talent which the record indicates is available; to serve local, religious, educational, civic, patriotic, and other organizations; to broadcast local news; and to generally provide a means of local public expression and a local broadcast service to listeners in that area."[1]

The Court cited in detail the programs which the applicant proposed to broadcast[2] and relied in particular on the applicant's representations that it "planned to use local talent—an abundance of which was shown to be available—and in this manner serve public interest of that area. Thus, it appears that the petition for a construction permit is supported by overwhelming evidence showing *the local need for a local station to serve in the manner set out*". (Emphasis supplied.)

Pursuant to this decision of the Court of Appeals, the Commission granted a license. It appears, however, that the program service rendered is markedly different from the representations upon which the Court relied. For example, only 14.2 percent of the station's time for the week beginning April 22, 1945, was devoted to the "local talent"[3] said to be so abundant in the area. More than 85.8 percent of its time, in contrast, was devoted to network programs and transcriptions. Instead of giving its time "without charge" to local religious organizations, as represented, Station KHMO sold 4¾ hours of time during the week to such organizations on a commercial basis, and provided no time for local religious programs without charge.

[1] *Okmulgee Broadcasting Corporation*, 4 FCC 302.

[2] Thus the Court noted that the applicant "proposed to give portions of its time, without charge, to the various local civic, educational, athletic, farming, fraternal, religious, and charitable organizations. Its proposed program consists of: Entertainment 42%, educational 20%, news 9%, religious 9%, agriculture 10%, fraternal 5%, and civic activities 5%. The tentative program contemplated, particularly, the use of the facilities of the station to aid education in supplementing classroom work, and in broadcasting from a secondary studio located at Hannibal La Grange College subjects of scholastic interest and athletic events; the use by the Hannibal Chamber of Commerce to further business relations; the use by the County Agriculture Agent to bring before farmers and farm clubs the subject matter that is offered through the United States Department of Agriculture and Missouri College of Agriculture on farm problems; the use by the County Health Department to give information concerning maternity and child health, public health problems, particularly prevention of disease, food and milk control, and general sanitation; the use of the station by business in advertising; the promotion of literary and philanthropic activities; the promotion of better civic spirit; the furtherance of physical culture and social activities of the Y. M. C. A. and Boy Scouts; and, the broadcasting of daily religious services of the several Hannibal churches." (70 App. D. C. 80, 82-3.)

[3] Including news programs read off the ticker by a local announcer.

PART II. COMMISSION JURISDICTION WITH RESPECT TO PROGRAM SERVICE

The contention has at times been made that Section 326 of the Communications Act, which prohibits censorship or interference with free speech by the Commission, precludes any concern on the part of the Commission with the program service of licensees. This contention overlooks the legislative history of the Radio Act of 1927, the consistent administrative practice of the Federal Radio Commission, the re-enactment of identical provisions in the Communications Act of 1934 with full knowledge by the Congress that the language covered a Commission concern with program service, the relevant court decisions, and this Commission's concern with program service since 1934.

The Communications Act, like the Radio Act of 1927, directs the Commission to grant licenses and renewals of licenses only if public interest, convenience and neces-

sity will be served thereby. The first duty of the Federal Radio Commission, created by the Act of 1927, was to give concrete meaning to the phrase "public interest" by formulating standards to be applied in granting licenses for the use of practically all the then available radio frequencies. From the beginning it assumed that program service was a prime factor to be taken into consideration. The renewal forms prepared by it in 1927 included the following questions:

(11) Attach printed program for the last week.
(12) *Why will the operation of the station be in the public convenience, interest and necessity?*
  (a) Average amount of time weekly devoted to the following services (1) entertainment (2) religious (3) commercial (4) educational (5) agricultural (6) fraternal.
  (b) Is direct advertising conducted in the interest of the applicant or others?

Copies of this form were submitted for Congressional consideration.[1]

In its Annual Report to Congress for 1928, the Commission stated (p. 161):

> "The Commission believes it is entitled to consider the program service rendered by the various applicants, to compare them, and to favor those which render the best service."

The Federal Radio Commission was first created for a term of one year only. In 1928 a bill was introduced to extend this term and extensive hearings were held before the House Committee on Merchant Marine and Fisheries. The Commissioners appeared before the Committee and were questioned at length as to their administration of the Act. At that time Commissioner Caldwell reported that the Commission had taken the position that

> ". . . each station occupying a desirable channel should be kept on its toes to produce and present the best programs possible and, if any station slips from that high standard, another station which is putting on programs of a better standard should have the right to contest the first station's position and after hearing the full testimony, to replace it." (Hearings on Jurisdiction, p. 188.)

The Commissioner also reported that he had concluded, after 18 months' experience, that station selections should not be made on the basis of priority in use and stated that he had found that a policy—

> ". . . of hearings, by which there is presented full testimony on the demonstrated capacity of the station to render service, is a much better test of who is entitled to those channels." (Ibid.)

By 1929 the Commission had formulated its standard of the program service which would meet, in fair proportion, "the tastes, needs and desires of all substantial groups among the listening public." A well-rounded program service, it said, should consist of

> "entertainment, consisting of music of both classical and lighter grades, religion, education, and instruction, important public events, discussion of public questions, weather, market reports, and news and matters of interest to all members of the family." (Great Lakes Broadcasting Co., reported in F.R.C., 3d Annual Report, pp. 33-35.)

By the time Congress had under consideration replacing the Radio Act of 1927 with a new regulatory statute, there no longer existed any doubt that the Commission did possess the power to take over-all program service into account. The broadcasting industry itself recognized the "manifest duty" of the Commission to consider program service. In 1934, at hearings before the House Committee on Interstate Commerce on one of the bills which finally culminated in the Communications Act of 1934, the National Association of Broadcasters submitted a statement which contained the following (*Hearings on H. R. 8301,* 73rd Cong., p. 117):

> *"It is the manifest duty of the licensing authority,* in passing upon applications for licenses or the renewal thereof, to determine whether or not the applicant is rendering or can render an adequate public service. *Such service necessarily includes* broadcasting of a considerable proportion of programs devoted to education, religion, labor, agricultural and similar activities concerned with human betterment. In actual practice over a period of 7 years, as the records of the Federal Radio Commission amply prove, this has been *the principal test* which the Commission has applied in dealing with broadcasting applications." (Emphasis supplied.)

In hearings before the same committee on the same bill (*H. R. 8301,* 73rd Cong.) Chairman Sykes of the Federal Radio Commission testified (pp. 350-352):

> "That act puts upon the individual licensee of a broadcast station the private initiative to see that those programs that he broadcasts are in the public interest. . . . Then that act makes those individual licensees responsible to the licensing authority to see that their operations are in the public interest."
>
> * * * * * *
>
> "Our licenses to broadcasting stations last for 6 months. *The law says that they must operate in the public interest, convenience, and necessity.* When the time for a renewal of those station licenses comes up, *it is the duty of the Commission in passing on whether or not that station should be relicensed for another licensing period, to say whether or not their past performance during the last license period has been in the public interest."* (Emphasis supplied.)
>
> * * * * * *
>
> "Under the law, of course, we cannot refuse a renewal until there is a hearing before the Commission. We would have to have a hearing before the Commission. to go thoroughly into the nature of all of the broadcasts of those stations, consider all of those broadcasts, and then say whether or not it was operating in the public interest."

In the full knowledge of this established procedure of the Federal Radio Commission, the Congress thereupon re-enacted the relevant provisions in the Communications Act of 1934.

[1] *Hearings on Jurisdiction of Radio Commission,* House Committee on Merchant Marine and Fisheries, 1928, p. 26.

In the course of the discussion of the 1934 Act, an amendment to the Senate bill was introduced which required the Commission to allocate 25 percent of all broadcasting facilities for the use of educational, religious, agricultural, labor, cooperative and similar non-profit-making organizations. Senator Dill, who was the sponsor in the Senate of both the 1927 and 1934 Acts, spoke against the amendment, stating that the Commission already had the power to reach the desired ends (78 *Cong. Rec.* 8843):

> "The difficulty probably is in the failure of the present Commission to take the steps that it ought to take to see to it that a larger use is made of radio facilities for education and religious purposes.
>
> * * * * * *
>
> "I may say, however, that the owners of large radio stations now operating have suggested to me that it might be well to provide in the license that a certain percentage of the time of a radio station shall be allotted to religious, educational, or non-profit users."

Senator Hatfield, a sponsor of the amendment, had also taken the position that the Commission's power was adequate, saying (78 *Cong. Rec.* 8835):

> "I have no criticism to make of the personnel of the Radio Commission, except that *their refusal literally to carry out the law of the land warrants the Congress of the United States writing into legislation the desire of Congress that educational institutions be given a specified portion of the radio facilities of our country."* (Emphasis supplied.)

The amendment was defeated and Section 307(c) of the Act was substituted which required the Commission to study the question and to report to Congress its recommendations.

The Commission made such a study and in 1935 issued a report advising against the enactment of legislation. The report stated:

> "Commercial stations are now responsible under the law, to render a public service, and the tendency of the proposal would be to lessen this responsibility.
>
> "The Commission feels that present legislation has the flexibility essential to attain the desired ends without necessitating at this time any changes in the law.
>
> "There is no need for a change in the existing law to accomplish the helpful purposes of the proposal.
>
> "In order for non-profit organizations to obtain the maximum service possible, cooperation in good faith by the broadcasters is required. *Such cooperation should, therefore, be under the direction and supervision of the Commission."* (Report of the Federal Communications Commission to Congress Pursuant to Sec. 307(c) of the Communications Act of 1934, Jan. 22, 1935.) (Emphasis supplied.)

On the basis of the foregoing legislative history there can be no doubt that Congress intended the Commission to consider overall program service in passing on applications. The Federal Communications Commission from the beginning accepted the doctrine that its public interest determinations, like those of its predecessor, must be based in part at least on grounds of program service. Thus early in 1935 it designated for joint hearing the renewal applications of Stations KGFJ, KFWB, KMPC, KRKD, and KIEV, in part "to determine the nature and character of the program service rendered . . ." *In re McGlasham et al.,* 2 F.C.C. 145, 149. In its decision, the Commission set forth the basis of its authority as follows:

> "Section 309(a) of the Communications Act of 1934 is an exact restatement of Section 11 of the Radio Act of 1927. This section provides that subject to the limitations of the Act the Commission may grant licenses if the public interest, convenience, and necessity will be served thereby. The United States Court of Appeals for the District of Columbia in the case of *KFKB Broadcasting Association, Inc.* v. *Federal Radio Commission,* 60 App. D.C. 79, held that under Section 11 of the Radio Act of 1927 the Radio Commission was necessarily called upon to consider the character and quality of the service to be rendered and that in considering an application for renewal an important consideration is the past conduct of the applicant." (2 F.C.C. 145, 149.)

The courts have agreed that the Commission may consider program service of a licensee in passing on its renewal application. In the first case in which an applicant appealed from a Commission decision denying the renewal of a station license in part because of its program service, the court simply assumed that program service should be considered in determining the question of public interest and summarized and adopted the Commission's findings concerning program service as a factor in its own decision.[1] In 1931, however, the question was squarely presented to the Court of Appeals when the KFKB Broadcasting Association contended that the action of the Commission in denying a renewal of its license because of the type of program material and advertising which it had broadcast, constituted censorship by the Commission. The Court sustained the Commission, saying:

> "It is apparent, we think, that the business is impressed with a public interest and that, because the number of available broadcasting frequencies is limited, *the Commission is necessarily called upon to consider the character and quality of the service to be rendered.* In considering an application for a renewal of a license, an important consideration is the past conduct of the applicant, for 'by their fruits shall ye know them.' Matt. VII: 20. Especially is this true in a case like the present, where the evidence clearly justifies the conclusion that the future conduct of the station will not differ from the past. (*KFKB Broadcasting Association* v. *Federal Radio Commission,* 47 F. 2d 670.) (Emphasis supplied.)

In 1932, the Court affirmed this position in *Trinity Methodist Church* v. *Federal Radio Commission,* 62 F. (2d) 850, and went on to say that it is the "duty" of the Commission "to take notice of the appellant's conduct in his previous use of the permit."

The question of the nature of the Commission's power was presented to the Supreme Court in the *network* case. The contention was then made that the Commission's

[1] *Technical Radio Laboratory* v. *Federal Radio Commission,* 59 App. D. C. 125, 36 F. (2d) 111.

power was limited to technological matters only. The Court rejected this, saying (*National Broadcasting Company* v. *United States,* 319 U.S. 190, 216-217):

> "The Commission's licensing function cannot be discharged, therefore, merely by finding that there are no technological objections to the granting of a license. If the criterion of 'public interest' were limited to such matters, how could the Commission choose between two applicants for the same facilities, each of whom is financially and technically qualified to operate a station? Since the very inception of federal regulation by radio, comparative considerations as to the service to be rendered have governed the application of the standard of 'public interest, convenience, or necessity.' "

The foregoing discussion should make it clear not only that the Commission has the authority to concern itself with program service, but that it is under an affirmative duty, in its public interest determinations, to give full consideration to program service. Part III of this Report will consider some particular aspects of program service as they bear upon the public interest.

PART III. SOME ASPECTS OF "PUBLIC INTEREST" IN PROGRAM SERVICE

As has been noted, the Commission must determine, with respect to each application granted or denied or renewed, whether or not the program service proposed is "in the public interest, convenience, and necessity."

The Federal Radio Commission was faced with this problem from the very beginning, and in 1928 it laid down a broad definition which may still be cited in part:

> "Broadcasting stations are licensed to serve the public and not for the purpose of furthering the private or selfish interests of individuals or groups of individuals. The standard of public interest, convenience, or necessity means nothing if it does not mean this. . . . The emphasis should be on the *receiving* of service and the standard of public interest, convenience, or necessity should be construed accordingly. . . . The *entire* listening public within the service area of a station, or of a group of stations in one community, is entitled to service from that station or stations. . . . In a sense a broadcasting station may be regarded as a sort of mouthpiece on the air for the community it serves, over which its public events of general interest, its political campaigns, its election results, its athletic contests, its orchestras and artists, and discussion of its public issues may be broadcast. *If . . . the station performs its duty in furnishing a well rounded program, the rights of the community* have been achieved." (In re Great Lakes Broadcasting Co., F.R.C. Docket No. 4900; cf. 3rd Annual Report of the F.R.C., pp. 32-36.) (Emphasis supplied)

Commission policy with respect to public interest determinations is for the most part set by opinions in particular cases. (See, for example, cases indexed under "Program Service" in Volumes 1 through 9 of the Commission's Decisions.) A useful purpose is served, however, by occasional overall reviews of Commission policy. This Part will discuss four major issues currently involved in the application of the "public interest" standard to program service policy; namely, (A) the carrying of sustaining programs, (B) the carrying of local live programs, (C) the carrying of programs devoted to public discussion, and (D) the elimination of commercial advertising excesses.

A. THE CARRYING OF SUSTAINING PROGRAMS

The commercial program, paid for and in many instances also selected, written, casted, and produced by advertisers and advertising agencies, is the staple fare of American listening. More than half of all broadcast time is devoted to commercial programs; the most popular programs on the air are commercial. The evidence is overwhelming that the popularity of American broadcasting as we know it is based in no small part upon its commercial programs.

Nevertheless, since the early days of broadcasting, broadcasters and the Commission alike have recognized that sustaining programs also play an integral and irreplaceable part in the American system of broadcasting. The sustaining program has five distinctive and outstanding functions.

1. To secure for the station or network a means by which in the overall structure of its program service, it can achieve a *balanced* interpretation of public needs.
2. To provide programs which by their very nature may not be sponsored with propriety.
3. To provide programs for significant minority tastes and interests.
4. To provide programs devoted to the needs and purposes of non-profit organizations.
5. To provide a field for experiment in new types of programs, secure from the restrictions that obtain with reference to programs in which the advertiser's interest in selling goods predominates.

(1) *Balance-wheel Function of the Sustaining Program.* The sustaining program is the balance-wheel by means of which the imbalance of a station's or network's program structure, which might otherwise result from commercial decisions concerning program structure, can be redressed.

Dr. Frank N. Stanton, then Director of Research and now vice-president of the Columbia Broadcasting System, explained this function to the House Committee on Interstate and Foreign Commerce (*Hearings on H. R. 4597,* 77th Cong., 2nd Sess., May 7, 1942, page 289):

> "One use Columbia makes of sustaining programs is to supplement commercial offerings in such ways as to achieve, so far as possible, a full and balanced network service. For example, if the commercial programs should be preponderantly musical, Columbia endeavors to restore program balance with drama or the like in its sustaining service."

The Commission, as well as broadcasters themselves, has always insisted that a "well-balanced program structure" is an essential part of broadcasting in the public interest. At least since 1928, and continuing to the present, stations have been asked, on renewal, to set forth the average amount of time, or percentage of time, devoted to entertainment programs, religious programs, educational programs, agricultural programs, fraternal

programs, etc.; and the Commission has from time to time relied upon the data thus set forth in determining whether a station has maintained a well-balanced program structure.[1]

In metropolitan areas where the listener has his choice of several stations, balanced service to listeners can be achieved either by means of a balanced program structure for each station or by means of a number of comparatively specialized stations which, considered together, offer a balanced service to the community. In New York City, a considerable degree of specialization on the part of particular stations has already arisen—one station featuring a preponderance of classical music, another a preponderance of dance music, etc. With the larger number of stations which FM will make possible, such specialization may arise in other cities. To make possible this development on a sound community basis, the Commission proposes in its application forms hereafter to afford applicants an opportunity to state whether they propose a balanced program structure or special emphasis on program service of a particular type or types.

Experience has shown that in general advertisers prefer to sponsor programs of news and entertainment. There are exceptions; but they do not alter the fact that if decisions today were left solely or predominantly to advertisers, news and entertainment would occupy substantially all of the time. The concept of a well-rounded structure can obviously not be maintained if the decision is left wholly or preponderantly in the hands of advertisers in search of a market, each concerned with his particular half hour, rather than in the hands of stations and networks responsible under the statute for overall program balance in the public interest.

A device by which some networks and stations are seeking to prevent program imbalance is the "package" program, selected, written, casted and produced by the network or station itself, and sold to the advertiser as a ready-built package, with the time specified by the station or network. In order to get a particular period of time, the advertiser must take the package program which occupies that period. This practice, still far from general, appears to be a step in the direction of returning control of programs to those licensed to operate in the public interest. The commercial "package" program is not a substitute for the sustaining program, however, for reasons set forth in subsections (2) through (5) of this section.

[1] The question asked on renewal in recent years is as follows:
"State the average percentage of time per month (combined total should equal 100%) devoted to——

"Commercial Programs	*"Sustaining Programs*
"1. Entertainment	"1. Entertainment
2. Educational	2. Educational
3. Religious	3. Religious
4. Agricultural	4. Agricultural
5. Civic (include in this item fraternal, Chamber of Commerce, charitable, and other civic but non-governmental programs)	5. Civic (include in this item fraternal, Chamber of Commerce, charitable, and other civic but non-governmental programs)
6. Governmental (include in this item all municipal, state, and federal programs, including political or controversial broadcasts by public officials, or candidates for public office, and regardless of whether or not the programs included under this item are entertainment, educational, agricultural, etc., in character)	6. Governmental (include in this item all municipal, state and federal programs, including political or controversial broadcasts by public officials, or candidates for public office, and regardless of whether or not the programs included under this item are entertainment, educational, agricultural, etc., in character)
7. News	7. News
8. ———	8. ———
9. Total"	9. Total"

What happens when the balance-wheel function of the sustaining program is neglected can be illustrated by the case of the "soap opera," defined as "a continuing serial in dramatic form, in which an understanding of today's episode is dependent upon previous listening."

In January 1940, the four networks provided listeners with 59½ daytime hours of sponsored programs weekly. Of these, 55 hours were devoted to soap operas. *Only 4½ sponsored daytime hours a week on the four networks were devoted to any other type of program.* Advertisers, in short, were permitted to destroy overall program balance by concentration on one type of program. The number of soap operas subsequently increased, reaching in April 1941 a total of some 50 commercially sponsored network soap operas a day.[2] Since then, there has been some decline, and the introduction of some sustaining programs in daytime hours has begun to modify the picture.

The extent of program imbalance still prevalent is indicated by the fact that in September 1945 the National Broadcasting Company was still devoting 4¾ hours per day, Monday through Friday, to 19 soap operas, and the Columbia Broadcasting System was similarly devoting 4¼ hours daily, Monday through Friday, to 17 such programs.

The following table presents data concerning soap operas during the period December 1944-April 1945.[2a] Column 1 shows the "rating" of the 19 soap operas broadcast by NBC and the 17 broadcast by CBS—that is, the percentage of telephone homes in 32 large cities where a respondent stated that the radio was tuned to the program in question or the station carrying the program. Column 2 shows the size of the available audience as determined by the same telephone calls—that is, the percentage of telephone homes in which someone was at home and awake to answer the telephone. Column 3, which is the "resultant" of columns 1 and 2, thus shows the recruiting power of the program—that is, the percentage of the available audience actually tuned to each soap opera. It will be noted that the most popular soap opera on the air during the period in question recruited 12.5 percent of the available audience. The average NBC soap opera recruited 8.4 percent of the available audience, and the average CBS soap opera recruited 6.7 percent of the available audience. In contrast, approximately 76.8 percent of the available audience answering the telephone during the soap opera hours reported that they had their radios turned off altogether.

NBC Soap Operas

			Program Rating	Available Audience	Recruiting Efficiency
Mon.–Fri.	10:15 a.m.	Lora Lawton	3.3	75.3	4.4
" "	10:30 a.m.	Road of Life	3.0	75.4	4.0
" "	10:45 a.m.	Joyce Jordan	3.0	73.6	4.1
" "	11:45 a.m.	David Harum	2.9	72.2	4.0
" "	2:00 p.m.	Guiding Light	5.5	68.2	8.1
" "	2:15 p.m.	Today's Children	6.0	67.1	8.9
" "	2:30 p.m.	Woman in White	5.6	66.0	8.5
" "	3:00 p.m.	A Woman of America	4.6	66.1	7.0
" "	3:15 p.m.	Oxydol's Own Ma Perkins	6.1	66.2	9.2

[2] C. E. Hooper, Inc., "Year End Review of 1943 Daytime Radio Listening."
[2a] See *Fortune,* March 1946, p. 119, "Soap Opera."

			Program Rating	Available Audience	Recruiting Efficiency
Mon.–Fri.	3:30 p.m.	Pepper Young's Family	7.1	65.9	10.7
" "	3:45 p.m.	Right to Happiness	7.0	66.4	10.5
" "	4:00 p.m.	Backstage Wife	6.7	67.6	9.9
" "	4:15 p.m.	Stella Dallas	6.9	67.4	10.2
" "	4:30 p.m.	Lorenzo Jones	6.7	68.7	9.8
" "	4:45 p.m.	Young Widder Brown	7.5	69.6	10.7
" "	5:00 p.m.	When a Girl Marries	8.9	71.1	12.5
" "	5:15 p.m.	Portia Faces Life	7.9	71.6	11.0
" "	5:30 p.m.	Just Plain Bill	6.5	73.4	8.9
" "	5:45 p.m.	Front Page Farrell	5.6	74.7	7.5
		CBS Soap Operas			
" "	10:00 a.m.	Valiant Lady	2.9	76.1	3.8
" "	10:15 a.m.	Light of the World	3.7	75.3	4.9
" "	10:30 a.m.	The Strange Romance of Evelyn Winters	3.4	75.4	4.5
" "	10:45 a.m.	Bachelor's Children	4.3	73.6	5.8
" "	11:00 a.m.	Amanda of Honeymoon Hill	2.8	74.5	3.8
" "	11:15 a.m.	Second Husband	3.3	73.3	4.5
" "	11:30 a.m.	Bright Horizon	4.5	73.1	6.2
" "	12:15 p.m.	Big Sister	6.7	72.1	9.3
" "	12:30 p.m.	The Romance of Helen Trent	7.0	72.1	9.7
" "	12:45 p.m.	Our Gal Sunday	6.8	70.8	9.6
" "	1:00 p.m.	Life Can Be Beautiful	7.2	70.4	10.2
" "	1:15 p.m.	Ma Perkins	7.7	69.7	11.0
" "	1:45 p.m.	Young Dr. Malone	5.1	68.2	7.5
" "	2:00 p.m.	Two On a Clue	4.3	68.2	6.3
" "	2:15 p.m.	Rosemary	4.1	67.1	6.1
" "	2:30 p.m.	Perry Mason	3.8	66.0	5.8
" "	2:45 p.m.	Tena & Tim	3.8	66.1	5.7

Source: "Sectional" Hooperatings, Dec. 1944–April 1945, Winter-Spring.

The "ratings" of the NBC and CBS soap operas must be considered in the light of the dominant position in the spectrum occupied by the stations concerned. Thus in the 32 cities in which the surveys in question were made, the power of the stations affiliated with each network was as follows:

	Total power	*Average power per station*
32 CBS stations	925,000 w	28,906 w
32 NBC stations	835,000 w	26,093 w
32 ABC stations	222,250 w	6,945 w
32 Mutual stations	200,000 w	6,250 w

Several reasons may be suggested for the popularity of soap operas among advertisers.[3] First, the soap opera is among the cheapest of all network shows to produce. The weekly production costs of the ordinary soap opera are reported to be less, for five 15-minute periods, than some advertisers spend on a one-minute transcribed spot announcement. Second, advertisers are not interested merely or primarily in the size of the audience which they achieve. They are interested also, and perhaps primarily, in two other indices of program effectiveness. One is the "sponsor identification index" which is defined as "the percent of listeners to a specific program which knows the name of the program's advertiser, or of any of his products." The other is the "product use index," defined as "the use of a sponsor's brand of product and that of his competitors among listeners to his program compared with non-listeners." An advertiser relying on the sponsor identification index, for example, may prefer a soap opera which appeals to only one million listeners and indelibly impresses the name of his product on two-thirds of them, rather than a non-soap opera program which appeals to two million listeners but impresses the sponsor's name on less than one-third. Similarly, an advertiser may prefer a soap opera which, as in an actual instance, results in the use of his product by 46.5 percent of those who listen (as compared with 25.1 percent of use among non-listeners), even though the program in question appeals to comparatively few listeners.

Mr. Duane Jones, head of an advertising agency reputed to be one of the five largest in New York, clearly was considering the special interests of advertisers rather than the public interest, when he declared:

> "The best radio program is the one that sells the most goods, not necessarily the one that holds the highest Hooper or Crossley rating." [4]

Whether or not the reasons cited for the popularity of soap operas among advertisers are the decisive ones, it is clear that the result on many stations has been a marked imbalance of program structure during the daytime hours; and it is significant that the first steps recently taken to redress this imbalance have been the addition of sustaining programs. It is by means of the sustaining program that program imbalance, consequent upon sponsor domination of excessive blocks of time, can be redressed by those responsible for program structure—balance—the licensees, including the networks.

(2) *Programs Inappropriate for Commercial Sponsorship*

A second role of the sustaining program is to provide time for broadcasts which by their very nature may not be appropriate for sponsorship. As early as 1930, Mr. Merlin H. Aylesworth, then president of the National Broadcasting Company, recognized this role of the sustaining program in testimony before the Senate Committee on Interstate Commerce, even proposing that college football games were by their nature inappropriate for commercial sponsorship.[5] More recently, in 1941, Mr. Niles Trammell, president of the National Broadcasting Co., has stated:

> "Another reason for the use of sustaining programs was the voluntary recognition on the part of broadcasters that programs of certain types, such as religious programs, informative programs furnished by various governmental agencies and certain programs involving discussions of political principles and other controversial issues, were not suited to advertising sponsorship. The use of high types of sustaining programs also creates goodwill for the station and induces people to become accustomed to listening to certain stations in preference to others." [6]

The *Code of the National Association of Broadcasters* similarly recognized, until 1945, that the presentation of controversial issues (except forums) should be exclusively in sustaining programs. While the Commission has recently held that an absolute ban on the sale of time for the discussion of public issues may under certain circumstances not serve the public interest,[7] it is nevertheless clear that such broadcasts should be primarily of a sustaining nature.

The Commission has never set forth and does not now propose to set forth the particular types of program which, for one reason or another, must remain free from commercial sponsorship. It does, however, recognize along with the stations and networks themselves that there are such programs.[8] Self-regulation consonant with public sentiment, and a responsible concern for the public interest, can best insure a suitable interpretation of the basic principle which the industry itself has always recognized, that some programs are by their nature unsuitable for commercial sponsorship. Public interest requires that sustaining time be kept available for such broadcasts.

(3) *Significant Minority Tastes and Interests*

It has long been an established policy of broadcasters themselves and of the Commission that the American system of broadcasting must serve significant minorities among our population, and the less dominant needs and tastes which most listeners have from time to time. Dr. Frank Stanton, in his testimony before the House Committee on Interstate and Foreign Commerce in 1942, previously cited, set forth this function of the sustaining program as follows:

> "There is another feature of sustaining service which differentiates it from commercial programs. While the CBS sustaining service recognizes the broad popular tastes, it also gives attention to smaller groups. It is known that the New York Philharmonic Symphony Orchestra, the Columbia Work Shop, Invitation to Learning, Columbia Broadcasting Symphony, and many other ambitious classical programs never reach the largest audience, but Columbia, nonetheless, puts them on year after year for minorities which are growing steadily."

Many sustaining programs, originally designed for comparatively small audiences, have proved so popular that they have subsequently acquired commercial sponsorship. "Of Men and Books," for example, was a sustaining feature of a literary nature for more than seven years, from May 26, 1938 to September 8, 1945, before a sponsor was obtained. When such a program becomes sponsored, the way is open for devoting sustaining time to still other types of programs having less than maximum audience appeal.

But even if they may not be able to compete, initially or ever, with Fibber McGee and Molly in size of audience, "sponsor identification index," and "product use index," such programs are essential to a well-balanced program structure. It is no doubt partly due to recognition of this fact that time has always been reserved from sponsorship for the carrying of such programs on a sustaining basis.

(4) *Service to Non-profit Organizations*

A well-balanced program structure has always been deemed to include programs devoted to the needs and purposes of non-profit organizations.

Section 307(c) of the Communications Act of 1934 specifically directed the Commission to "study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of non-profit activities," and to report to Congress its recommendations. The Commission undertook prolonged hearings on the question, at which witnesses for non-profit organizations, networks and stations were heard at length. Such organizations as the National Committee on Education by Radio, individual educational institutions, representatives of many religious organizations, the American Federation of Labor, the Women's National Radio Committee, the Farmers' Union, and many others testified concerning the importance of broadcasting to their organizations and the services which their organizations could render to the public through broadcasting. Networks and stations, in turn, testified without hesitation to their willingness to assist and to supply time for the non-profit organizations.[9]

The Commission, in its report to Congress pursuant to Section 307(c) of the Communications Act, recommended that specific percentages of facilities *not* be reserved by statute for non-profit organizations, specifically on the ground that existing commercial stations were ready and willing to carry programs of non-profit organizations and that non-profit organizations would benefit thereby. Said the Commission:

[3] According to the Cooperative Analysis of Broadcasting (CAB), network commercial time during the day from October 1943 to April 1944 was divided as follows:

Serial drama	57.4%
News and talks	10.7%
Variety	8.7%
Drama	6.8%
Children's Programs	4.7%
Classical and Semi-Classical	4.5%
Audience Participation	2.8%
Popular Music	2.2%
Familiar Music	1.3%
Hymns	0.9%
	100 %

[4] The advertiser view cited may be contrasted with one of the "basic principles" in the interpretation of the phrase "public interest, convenience or necessity" laid down by the Federal Radio Commisison in 1928:

> "While it is true that broadcasting stations in this country are for the most part supported or partially supported by advertisers, broadcasters are not given these great privileges by the United States Government for the primary benefit of advertisers. *Such benefit as is derived by advertisers must be incidental and entirely secondary to the interest of the public.*" (Emphasis in original.)

[5] "*Mr. Aylesworth.* * * * We have refused to permit from our system the sponsoring of football games by commercial institutions. That may be a wrong policy; I do not know; but I have assumed that with all these youngsters in their management boards and with all of the commercialism that is talked about, and so forth, that I just did not quite like to see the Yale-Harvard game announced 'through the courtesy of so and so'." (*Hearings on S. 6*, 1930, p. 1711.)

[6] Affidavit of Niles Trammel, in *National Broadcasting Co.* v. *United States* in the Supreme Court of the U. S., October Term, 1941, No. 1025, Transcript of Record, p. 228.

[7] *In the Matter of United Broadcasting Co.* (*WHKC*), decided June 26, 1945.

[8] For example, one station has recently stated its refusal to exploit the problems of returning veterans on commercial programs, preferring programs devoted to veteran problems on a sustaining basis. *Variety*, for March 14, 1945, reports:

> "WMCA FEELS VETS WOULD RESENT COM'L EXPLOITATION OF REHABILITATION SHOW.
>
> "Plans for the production of a new program helping returning GIs rehabilitate themselves, and to aid their families in the readjustment period, are being planned by WMCA, N. Y. Move further reflects the industry-wide consciousness of the vital issue. * * *
>
> "Show will not be for sale, station feeling vets would resent having solution of their problems made the subject of commercial exploitation. As result it's going on as a public service show."

[9] Merlin A. Aylesworth, then president of the National Broadcasting Company, testified in particular: "We know if we do not render a public service, the Commission will give the license to others who will render better public service." (*Hearings* pursuant to Sec. 307(c), p. A23.)

William S. Paley, until recently president of the Columbia Broadcasting System, similarly testified: "We hold our license by serving the public interest, convenience, and necessity. And only by adequate cooperation with all public spirited groups can we be deemed to perform the conditions of our contract." (*Ibid.*, p. 11151.)

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"It would appear that the interests of the non-profit organizations may be better served by the use of the existing facilities, thus giving them access to costly and efficient equipment and to established audiences, than by the establishment of new stations for their peculiar needs. In order for non-profit organizations to obtain the maximum service possible, cooperation in good faith by the broadcasters is required. *Such cooperation should, therefore, be under the direction and supervision of the Commission. . . . It is our firm intention to assist the non-profit organizations to obtain the fullest* opportunities for expression." (Pp. 6, 9-10; emphasis supplied.)

Cooperation between networks, stations, and non-profit organizations has always been present in greater or less degree, and it may be noted that many outstanding programs, both network and local, have resulted from such cooperation. Among the programs honored at the 9th Annual Exhibition of Educational Radio Programs, 1945 (the Ohio State University Awards), for example, were the following:

"GROUP I—REGIONAL WEB, REGIONAL OR CLEAR-CHANNEL STATION

"RELIGIOUS BROADCASTS: First Award, 'Salute to Valor' series, planned and produced by National Council of Catholic Men, WEAF, New York, and NBC. Honorable Mention: 'Victorious Living' series, planned and produced by International Council of Religious Education, widely used over regional and clear-channel stations.

"CULTURAL PROGRAMS: Honorable Mention: 'Words at War' series, planned by Council on Books in Wartime, WEAF, New York, and NBC.

"PUBLIC DISCUSSION PROGRAMS: First Award, 'University of Chicago Round Table' series, planned and produced by U. of Chicago, WMAQ, Chicago, and NBC.

"PERSONAL AND FAMILY LIFE PROGRAMS: Honorable Mention: 'The Baxters' series, planned by National Congress of Parents-Teachers, WMAQ, Chicago, and NBC. Special Mention: 'Alcoholics Anonymous' series, WWJ, Detroit.

"PROGRAMS FURTHERING WAR, PEACE: First Award: 'The March of Minnesota' series, planned and produced by Minnesota Resources Committee, WCCO, Minneapolis, and special state network. First Award, 'Russian War Relief Presents' series, planned and produced by Russian War Relief, Inc.; produced by members of Radio Directors Guild of New York City; released to many stations.

"CHILDREN'S PROGRAM, OUT-OF-SCHOOL: First Award, 'Books Bring Adventure' series, planned and produced by Association of Junior Leagues of America.

"IN SCHOOL PROGRAMS, PRIMARY CHILDREN: First Award, 'Your Story Parade' series, planned and produced by Texas State Department of Education, WBAP, Fort Worth, and Texas Quality web.

"GROUP II—LOCAL STATION OR ORGANIZATION

"CULTURAL PROGRAMS: Special Mention: 'New World A-Coming' series, planned and produced by station WMCA in cooperation with Citywide Citizens Committee on Harlem; WMCA, New York.

"PUBLIC DISCUSSION PROGRAMS: First Award, 'Free Speech Forum' series, planned and produced by WMCA and New York Newspaper Guild; WMCA, New York.

"NEW INTERPRETATION: First Award, 'History in the Making' series, planned and produced by University of Colorado and Rocky Mountain Radio Council; KVOD, Denver.

"CHILDREN'S PROGRAMS, OUT-OF-SCHOOL: First Award, 'Story Time' series, planned and produced by Colorado State College of Education and Rocky Mountain Radio Council; KLZ, Denver.

"IN SCHOOL PROGRAMS, ELEMENTARY CHILDREN: Honorable Mention: 'News Today—History Tomorrow' series, planned and produced by Rochester Public Schools, WHAM, Rochester, N. Y.

"IN SCHOOL PROGRAMS, JUNIOR - SENIOR HIGHS: First Award, 'Our America' series, planned and produced by Radio Council of Chicago Public Schools; WBEZ, Chicago Public Schools."

The *Peabody* and *Variety* awards similarly feature such programs as the WTIC temperance series prepared in cooperation with Alcoholics Anonymous, "Worcester and the World," broadcast by station WTAG in cooperation with the United Nations Information Office; programs of the American Jewish Committee; "Assignment Home," produced by CBS in cooperation with Army Service Forces, etc.

Such programs as these have done much to enrich American broadcasting. It may well be that they have kept in the radio audience many whose tastes and interests would otherwise cause them to turn to other media. Radio might easily deteriorate into a means of amusing only one cultural stratum of the American public if commercially sponsored entertainment were not leavened by programs having a different cultural appeal. Just as the programs of non-profit organizations benefit from being aired along with the mass-appeal programs of advertisers, so, it may be, the programs of the advertisers reach a larger and more varied audience by reason of the serious sustaining programs produced in cooperation with non-profit organizations. The furnishing of time and assistance to non-profit organizations is thus not merely a responbility of networks and stations, but also an opportunity.

Special problems are involved in connection with program service designed especially for farmers—market reports, crop reports, weather reports, talks on farming, and other broadcasts specifically intended for rural listeners. The question of programs particularly adapted to the needs of rural listeners has been made an issue in the Commission's forthcoming Clear Channel Hearings (Docket No. 6741) and surveys of rural listeners have been made for the Commission by the Division of Program Surveys, Bureau of Agricultural Economics, Department of Agriculture, and by the Bureau of the Census.[10]

(5) *Program Experimentation*

Dr. Stanton, in his testimony previously cited, has described still another role of the sustaining program in the American system of broadcasting:

> "* * * It is through the sustaining or noncommercial program service that Columbia has developed its greatest contributions to network radio broadcasting. On its own time and at its own expense, Columbia has pioneered in such experimental fields as that of original radio drama through the Columbia Workshop Series. Further, it was the first to originate news broadcasts involving on-the-spot reports from correspondents located over all the world. The Columbia School of the Air, now in its thirteenth year, is another example of the use to which Columbia puts its sustaining time by providing a balanced curriculum of broadcasts, 5 days a week throughout the school year, suitable for use in the classrooms. Columbia has also taken the leadership in the matter of new program content in adult education, music and public debate."

Various advertisers and advertising agencies have frankly stated the extent to which their commercial requirements make necessary a special tailoring of commercial programs. The president of the American Tobacco Company, a sponsor of many network commercial programs, has been quoted to this effect:

> "We have some funny things here about radio, and we have been criticized for it. Taking 100% as the total radio value, we give 90% to commercials, to what's said about the product, and we give 10% to the show.
>
> "We are commercial and we cannot afford to be anything else. I don't have the right to spend the stockholder's money just to entertain the public. In particular, sponsors are naturally loath to sponsor any program which may offend even a minority of listeners. * * * The last thing I could afford to do is to offend the public."

Similarly Proctor & Gamble, probably the largest sponsor in American broadcasting, has been described as having "a policy never to offend a single listener."

In 1935, to take an extreme example, Alexander Woollcott's "Town Crier" broadcasts were discontinued when the sponsor complained Mr. Woollcott had criticized Hitler and Mussolini, and might thus offend some listeners.

In the field of creative and dramatic writing for radio, the sponsor's understandable desire to please, to avoid offense to anyone, and to integrate the tone and content of his program with his sales appeal, may exert an especially restrictive influence on artistic self-expression, and on the development of the radio art. Not a few distinguished writers are known to be unwilling to accept sponsorship because of restraints and stereotypes imposed which reflect the commercial as against the artistic preoccupations of the sponsor. *Variety* comments on this situation in its issue of June 20, 1945:

> "Radio script writers are turning in increasing numbers to the legit field. . . . What is particularly significant, however, is the motive behind the wholesale transfer of allegiance of the scripters from radio to Broadway. For some time the feeling has been mounting among many of the serious writers for radio that they've been retarded by a lack of freedom of expression . . . and that as long as radio remains more or less of a 'duplicating machine' without encouraging creative expression and without establishing an identity of its own, it's inevitable that the guy who has something to say will seek other outlets."

Norman Rosten, himself a writer of commercial programs and winner of a grant from the American Academy of Arts and Letters for his radio writing, has stated the point of view of some radio writers in part as follows:

> "The sponsor and the advertising agency have taken over radio quietly in this matter of writing. Except for sustaining shows (often worthy, such as 'Assignment Home') or special public service programs magnanimously aired after 11:30 p. m., the broadcasting company sells Time. It owns the air. It will sell you a piece. Period.
>
> * * * * * *
>
> "By 'non-commercial radio' I do not mean simply any sustaining series. I mean a non-format show, an experimental show, one which does not have limitations of content or form. Something like the old Columbia Workshop. I mean a half hour each week on each network for a program of original radio plays. With or without love in a cottage. In poetry or prose. Any way we please. No commercial and no strings. All we want is a piece of wavelength and your good auspices. Not as a seasonal replacement, but an all-year-round proposition. The present hit-or-miss, one-shot system is a phony. Nor does a new 'Thirteen by Corwin' mean the millennium. Mr. Corwin's triumph has not saved his fellow-writers. How about a 'Thirteen by Thirteen?' or 'Twenty-six by Twenty-six?' The writers are here and some good ones. How about setting the Saga of Lux or the creaking door aside one half hour per week per network? It might well usher in a renaissance in radio drama. How about it NBC, CBS, American and Mutual? Put up or, as the saying quaintly goes, shut up. Prove it, or forever hold your pronouncements about radio coming of age. We are nearing the middle of the 20th century. Shall the singing commercial and the Lone Ranger inherit the earth?"

There is no reason to believe that the present boundaries of program service are the ultimate boundaries. If broadcasting is to explore new fields, to devise new types of programs for the American listener, it is clear that the sustaining program must continue as a means by which experimentation and innovation may have the fullest scope, undeterred by the need for immediate financial success or the imposition on writers of restraints deriving from the natural, but limiting, preoccupations of the advertiser.

It is especially important that some sustaining programs be reserved from commercial restraints in view of the degree of concentration of control currently existing

[10] *Attitudes of Rural People Toward Radio Service*, Bureau of Agricultural Economics, U. S. Department of Agriculture, January 1946.

among advertisers and advertising agencies. In 1944, for example:

26% of CBS business came from 4 advertisers.
38% of CBS business was handled by 4 advertising agencies.
25% of ABC (Blue Network) business came from 4 advertisers.
37% of ABC (Blue Network) business was handled by 4 advertising agencies.
23% of MBS business came from 4 advertisers.
31% of MBS business was handled by 4 advertising agencies.[11]

One advertiser, Proctor & Gamble, is reputed to have spent $22,000,000 on radio advertising in 1944. It purchased approximately 2,000 hours a week of station time —equivalent to the entire weekly time, from sign-on to sign-off, of more than 18 broadcast stations. Proctor & Gamble, of course, produces many of its own shows through its own advertising agencies and has control over all its shows. This control is exercised, naturally enough, for the purpose of selling soap. It may incidentally have profound effects on the manners, mores, and opinions of the millions who listen. That is an inevitable feature of the American system of broadcasting; but it is not inevitable that only programs so produced and so controlled shall reach the ear of American listeners. The sustaining program is the necessary makeweight.

(6) *Statistics of Sustaining Programs*

But while networks and stations alike have traditionally recognized the importance of the sustaining program as an integral part of the American system of broadcasting, there is evidence to suggest that such programs are disappearing from the program service of some stations, especially during the best listening hours.

No accurate statistical series has yet been established to determine the proportion of time devoted to sustaining programs, or the trends from year to year. In the most recent annual reports of stations and networks to the Commission, however, station licensees have analyzed their program structure for the month of January 1945. Since no definition of "sustaining" has heretofore been promulgated, these figures must be approached with caution. Some stations, for example, classify a 15-minute "participating" program as sustaining, even though it is interrupted by three-four, or five spot announcements. Some "bonus" stations which carry network programs without direct remuneration from the network classify all their network commercial programs as "sustaining." The returns to the Commission are in some cases carelessly prepared; some stations, for example, report more than 5 hours of programs daily between 6 and 11 p. m.

[11] *Broadcasting Yearbook*, 1945, pp. 30, 32. Comparable data for NBC not available.

Some of the returns are wholly unusable. Nevertheless, the returns of 703 stations for the month of January 1945 appeared sufficiently complete to warrant tabulation.

These 703 stations were on the air an average of 16 hours and 5 minutes daily. Of this time, they reported 8 hours and 40 minutes, or 53.9 percent, as commercial, and the remaining 7 hours and 25 minutes, or 46.1 percent, as sustaining.

These overall figures suggest that the sustaining program remains a major part of broadcasting today. On closer analysis, however, certain questions arise.

First, it should be noted that in general, the larger stations carried a considerably smaller percentage of sustaining programs than the smaller stations, as shown on the following table:

AVERAGE HOURS PER DAY AND PERCENTAGE OF TIME ON THE AIR DEVOTED TO COMMERCIAL AND SUSTAINING PROGRAMS BY CLASS OF STATION

For month of January, 1945

	Commercial Hours per day	Commercial % of time on air	Sustaining Hours per day	Sustaining % of time on air
50 kw stations (41)	12:50	67.3	6:14	32.7
500 w—50 kw stations (214)	10:41	61.3	6:45	38.7
250 w or less stations (376)	7:37	47.6	8:23	52.4
Part time stations (72)	5:46	53.3	5:30	46.7
All stations (703)	8:40	53.9	7:25	46.1

Second, the proportion of time devoted to sustaining programs during the best listening hours from 6 to 11 p.m. was lower than during other hours:

AVERAGE HOURS AND PERCENTAGE OF TIME ON THE AIR, 6 TO 11 P. M., DEVOTED TO COMMERCIAL AND SUSTAINING PROGRAMS BY CLASS OF STATION

For month of January, 1945

	Hours per day	% of time on air	Hours per day	% of time on air
6 P.M. to 11 P.M. only				
50 kw stations (41)	4:16	84.7	:46	15.3
500 w—50 kw stations (214)	3:38	72.9	1:21	27.1
250 w or less stations (376)	2:38	53.9	2:16	46.1
Part time stations (72)	:46	60.5	:31	39.5
All stations (703)	2:51	62.4	1:43	37.6

Source: Annual Financial Reports, 1944.

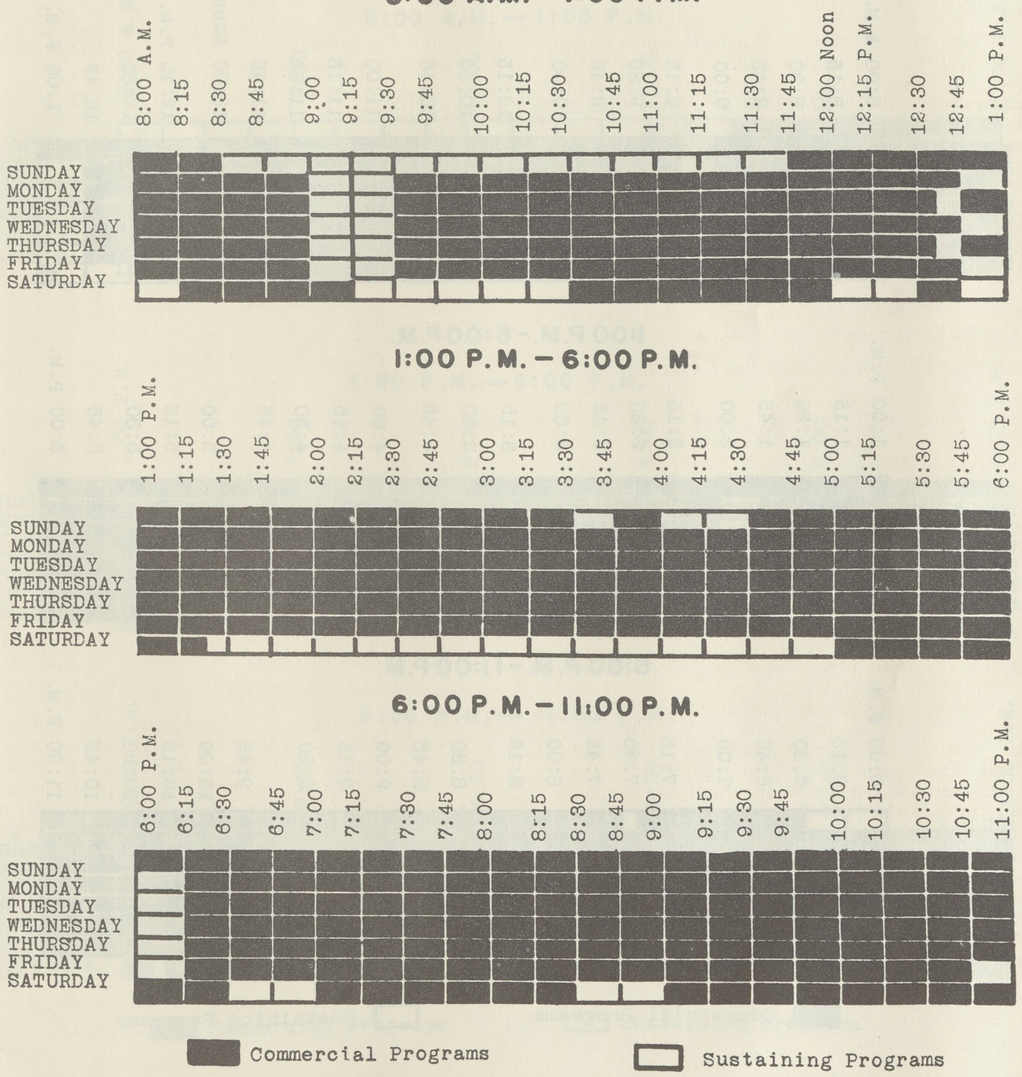
The above statistics are, of course, averages, and hence do not illustrate the paucity of sustaining programs on particular stations. The four following charts show in black the commercial programs, and in white the sustaining programs, of Stations WLW, WBAL, WCAU, and WSIX for a random week. Especially noteworthy is the tendency to crowd sustaining programs into the Saturday afternoon and Sunday morning segments, and to crowd them out of the best listening hours from 6 to 11 p.m.

STATION WLW

A

COMMERCIAL AND SUSTAINING PROGRAMS

Week Beginning Sunday, June 3, 1945



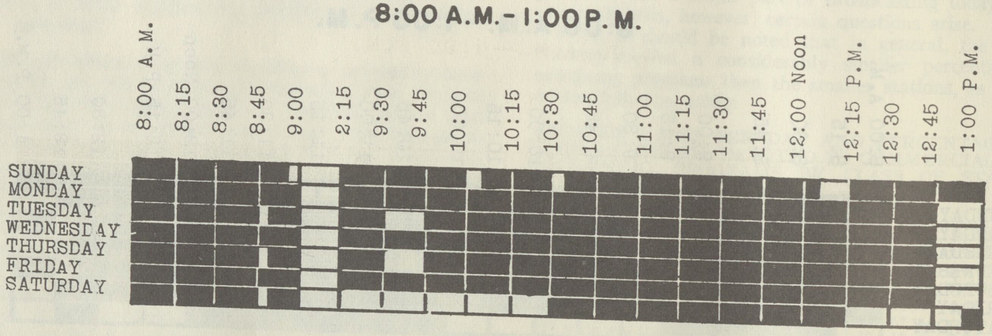
STATION WBAL

COMMERCIAL AND SUSTAINING PROGRAMS

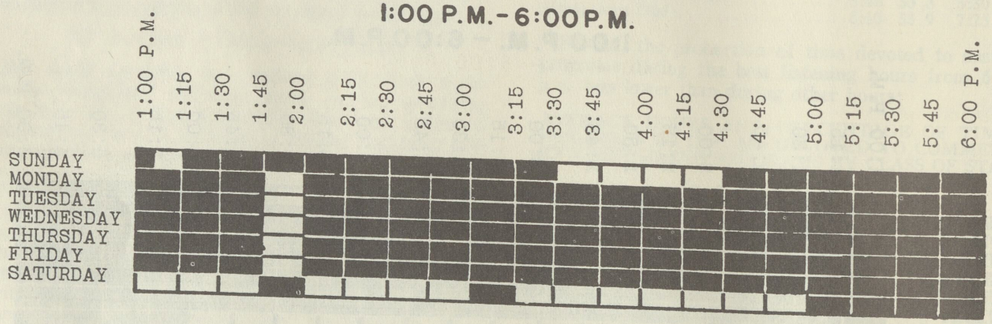
Week Beginning Sunday, April 23, 1944

B

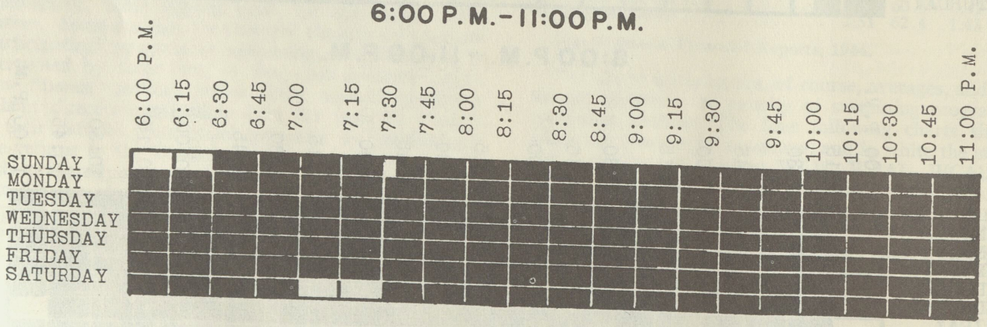
8:00 A.M. - 1:00 P.M.



1:00 P.M. - 6:00 P.M.



6:00 P.M. - 11:00 P.M.



Commercial Programs Sustaining Programs

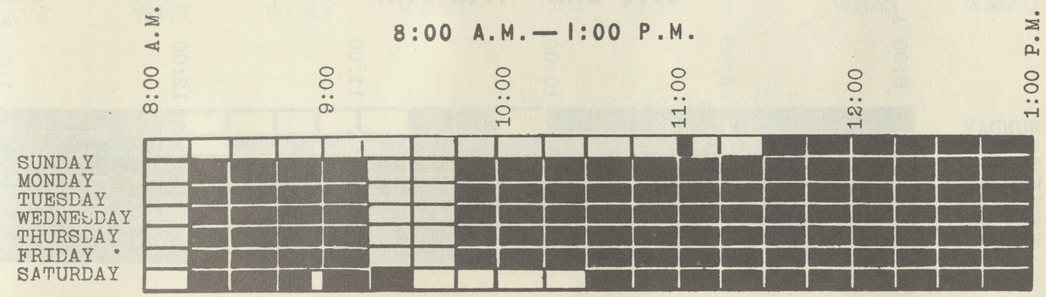
STATION WCAU

COMMERCIAL AND SUSTAINING PROGRAMS

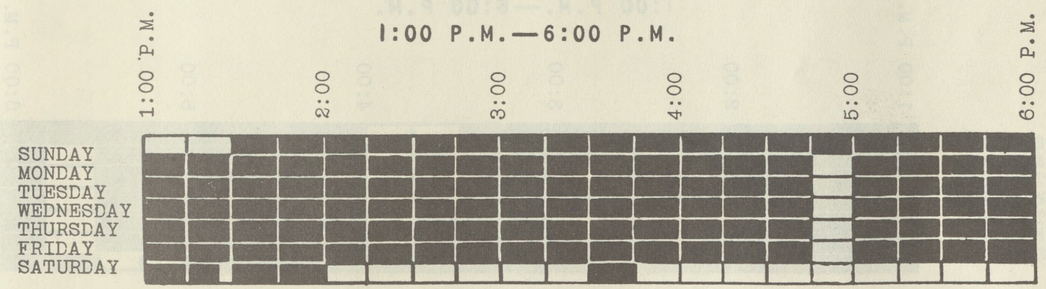
Week beginning Thursday, February 8, 1945

C

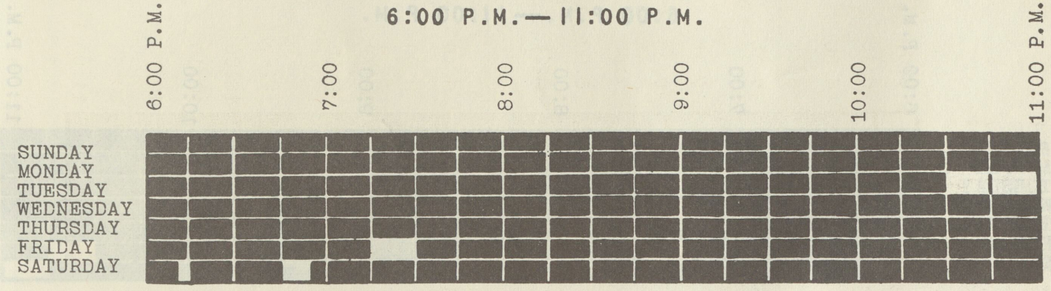
8:00 A.M. — 1:00 P.M.



1:00 P.M. — 6:00 P.M.



6:00 P.M. — 11:00 P.M.



Commercial Programs Sustaining Programs

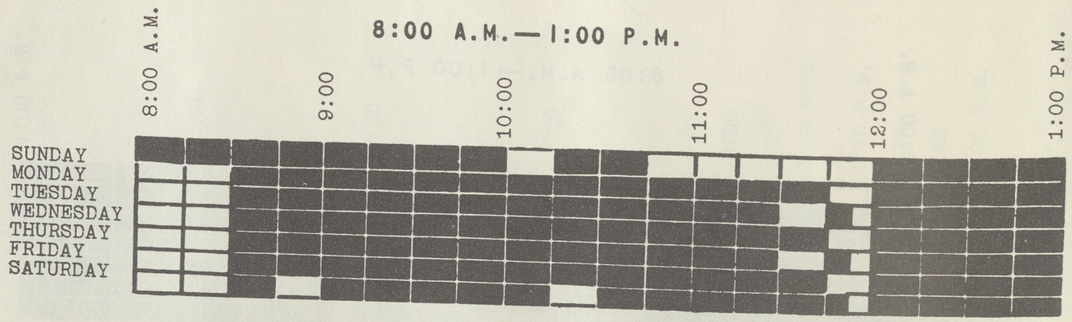
STATION WSIX

COMMERCIAL AND SUSTAINING PROGRAMS

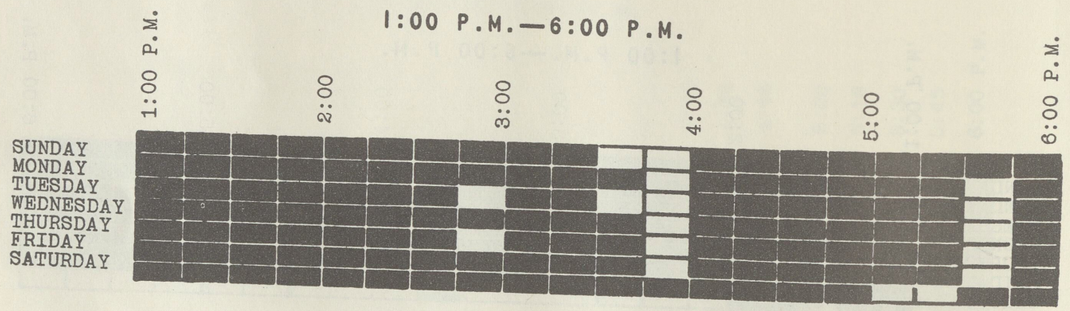
Week beginning Sunday, November 26, 1944

D

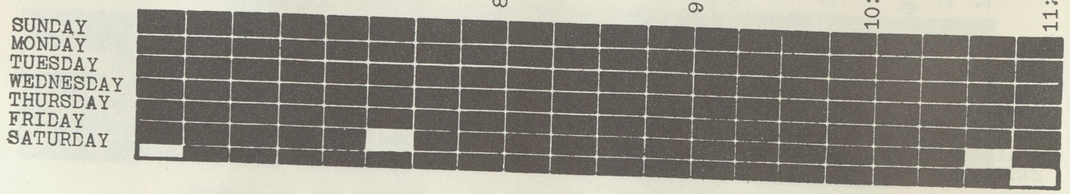
8:00 A.M.—1:00 P.M.



1:00 P.M.—6:00 P.M.



6:00 P.M.—11:00 P.M.



Commercial Programs Sustaining Programs

The following eight charts similarly illustrate the paucity of sustaining programs during the best listening hours on the stations designated as "basic affiliates" by the four major networks. On these charts all programs are commercial except those marked with an "S." It will be noted that on Sunday, April 23, 1944, the following stations carried no sustaining programs whatever between the hours of 6 and 11 p.m.:

WHO	WIRE	WCED	WXZY
WSYR	WTMJ	KOIL	WING
WSPD	WDEL	KMBC	WMAL
WAVE	WMT	WCKY	WEMP

Similarly on Monday, April 24, 1944, the following stations carried no sustaining programs whatever between the hours of 6 and 11 p.m.:

WAGE	WSAI	WFBL	WSPD
WAKR	WNBH	WTOP	WBAL
WXYZ	WEMP	WTAG	WAVE
WING	WTOL	WBBM	WIRE
WENR–WLS	WABC	WADC	WTMJ
WISH	WJR	WMT	WOW
		WHAS	WMAQ

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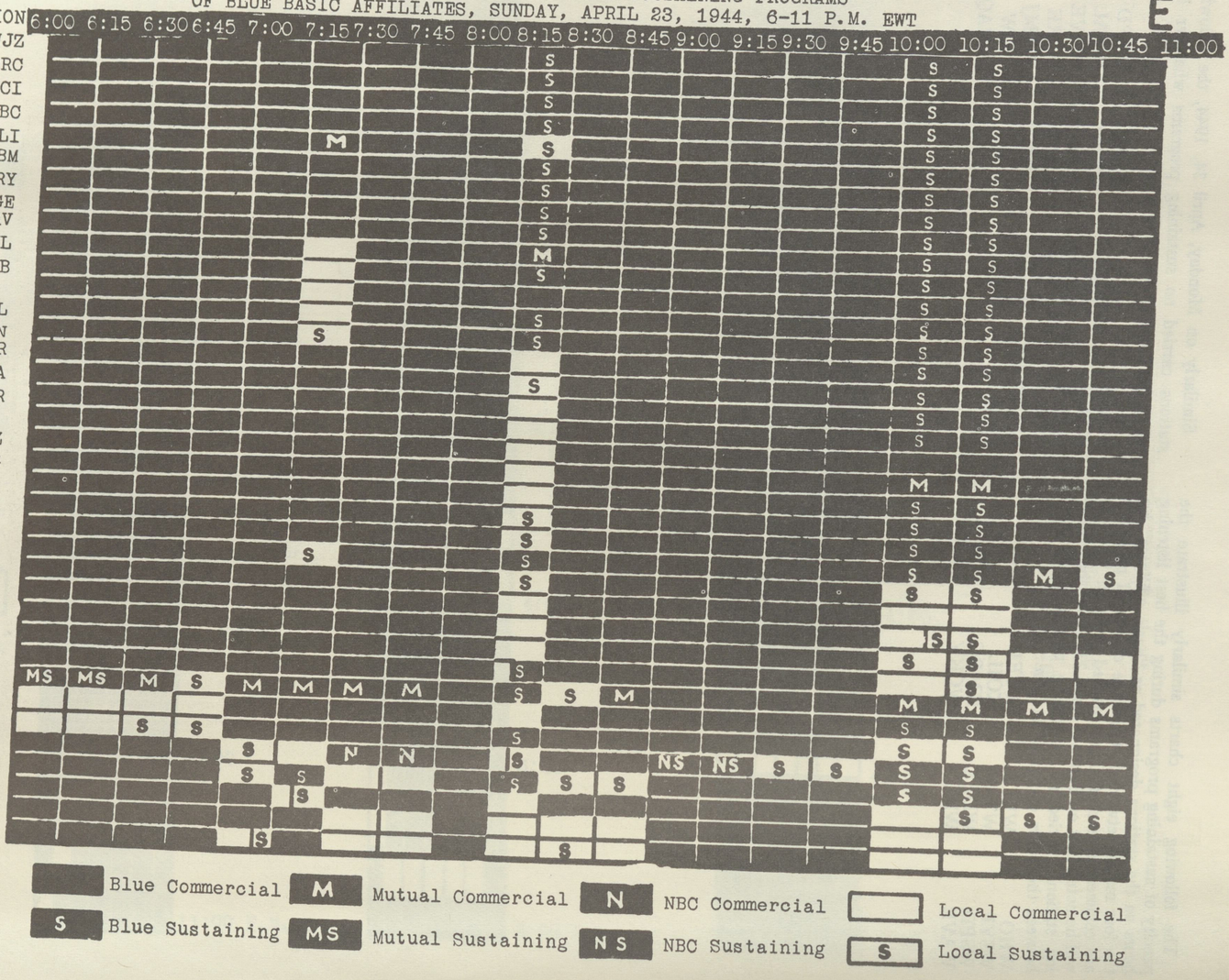
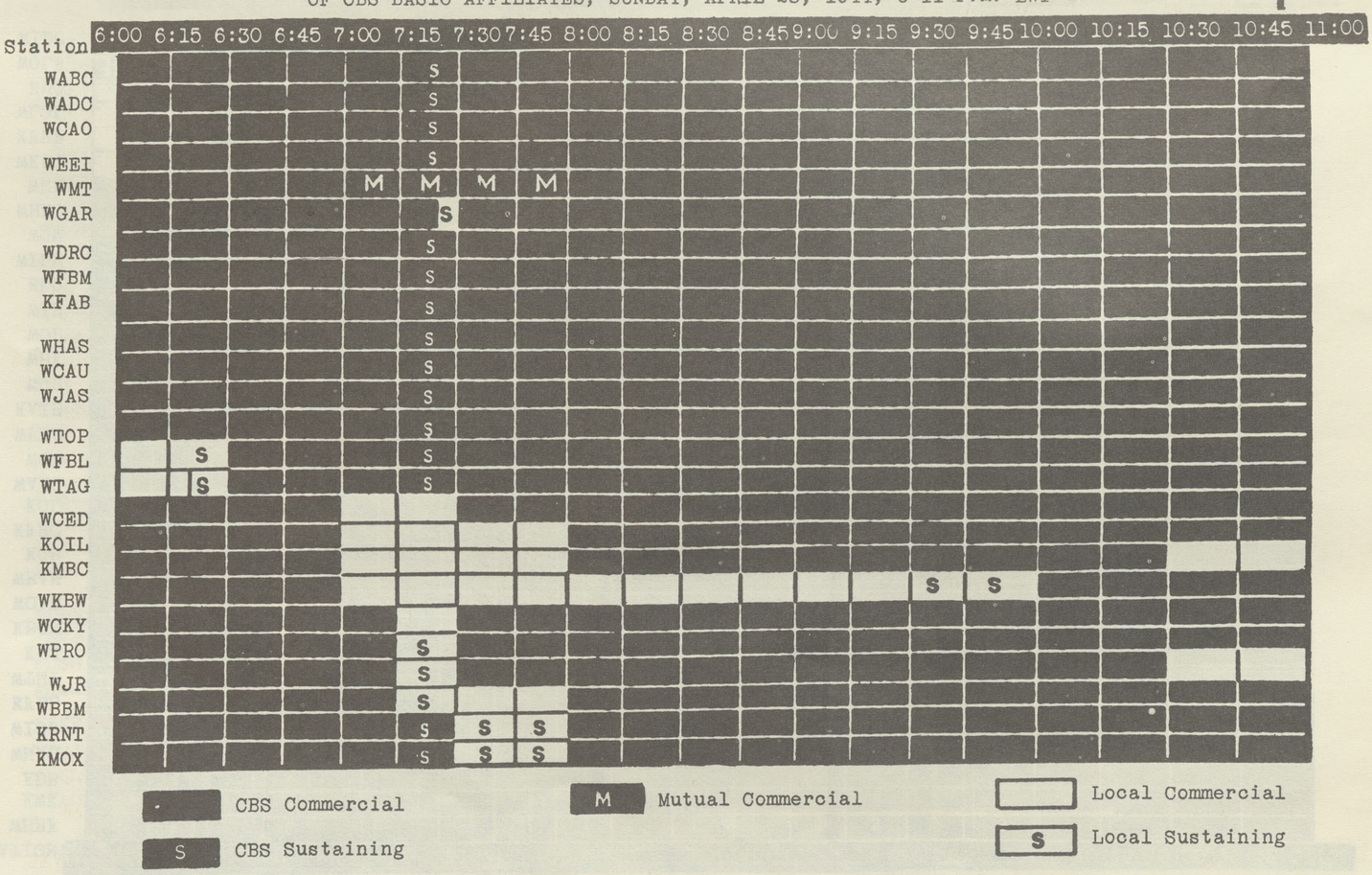
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF BLUE BASIC AFFILIATES, SUNDAY, APRIL 23, 1944, 6-11 P.M. EWT

E



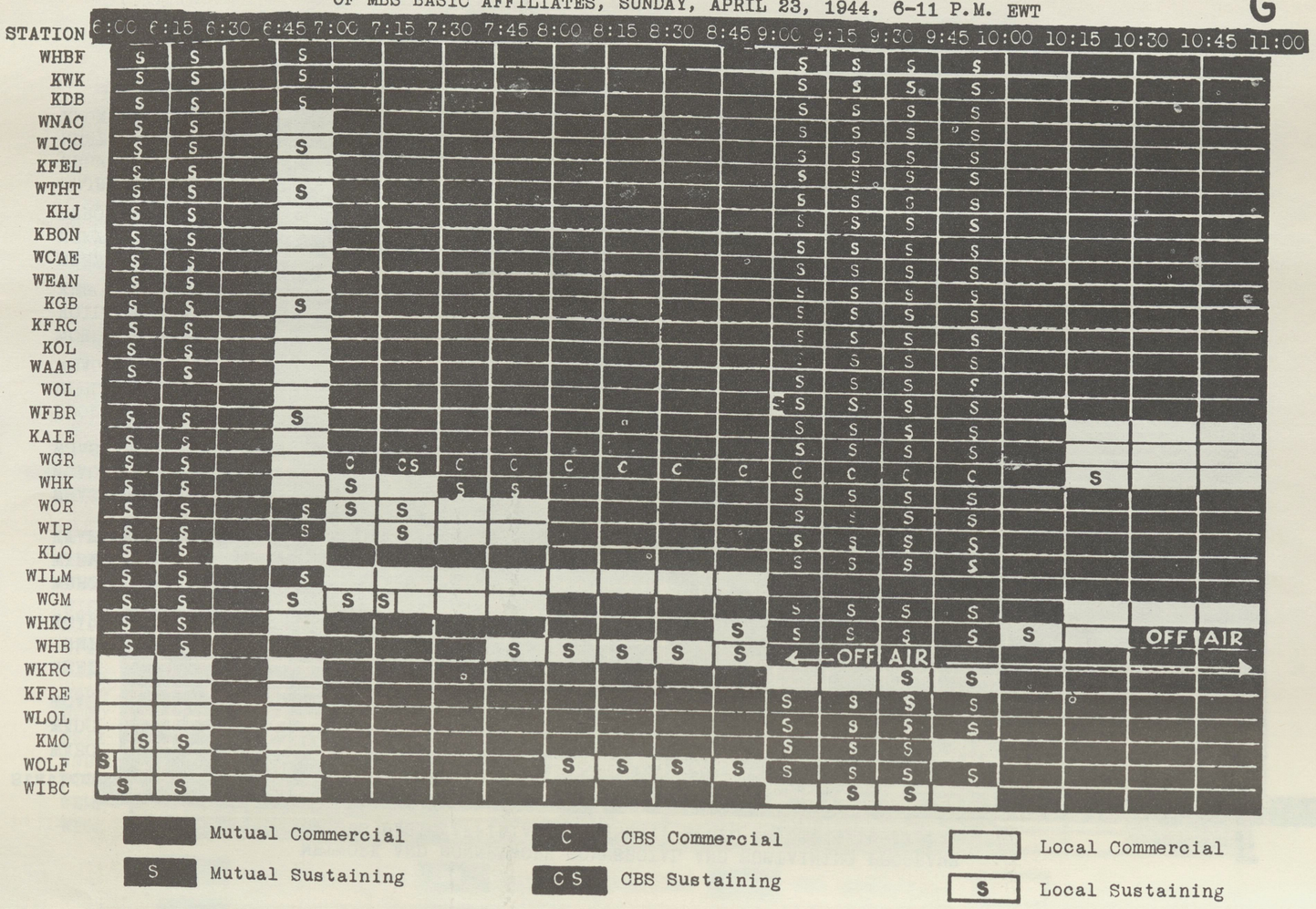
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF CBS BASIC AFFILIATES, SUNDAY, APRIL 23, 1944, 6-11 P.M. EWT

F



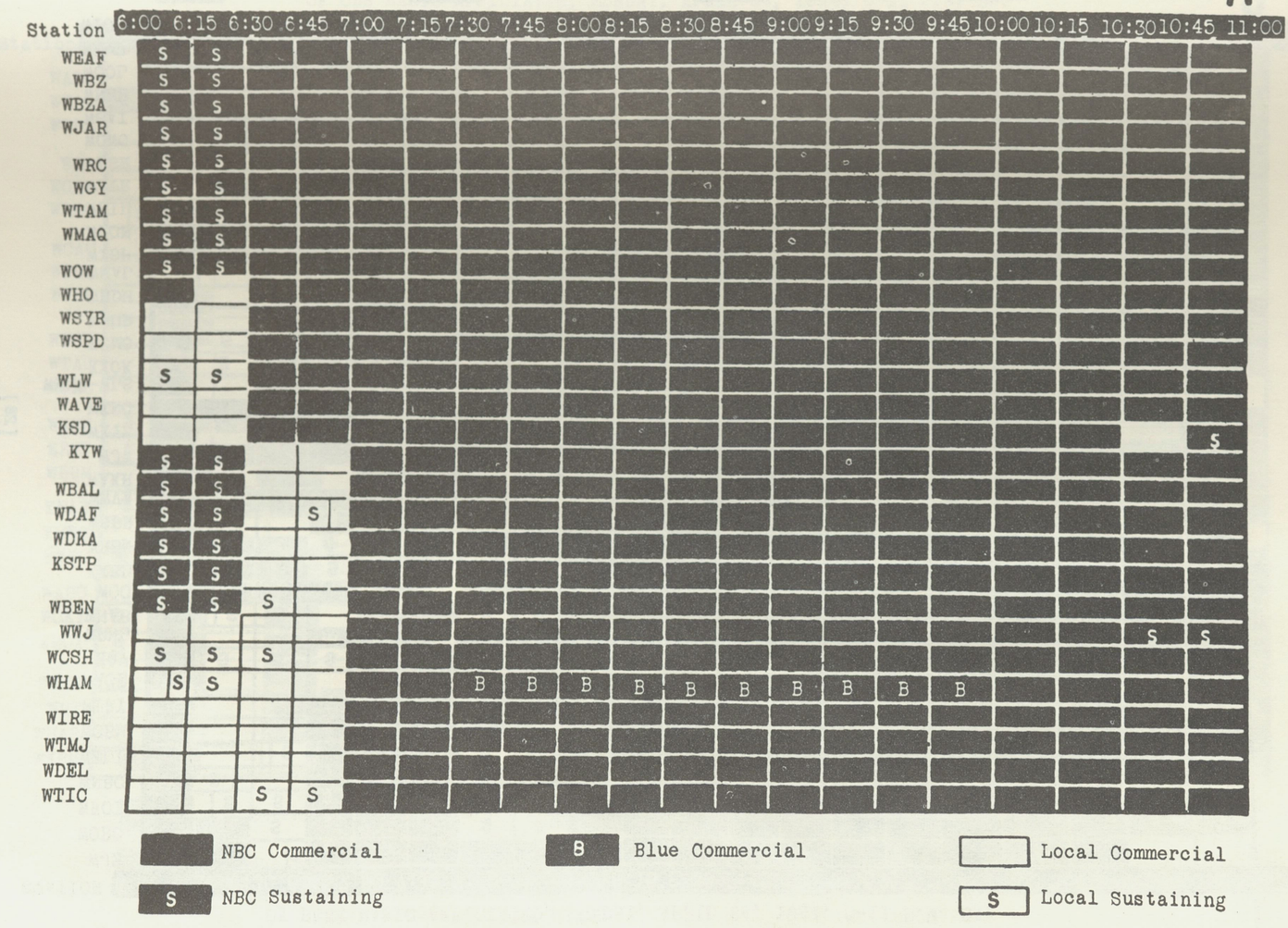
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF MBS BASIC AFFILIATES, SUNDAY, APRIL 23, 1944, 6-11 P.M. EWT

G



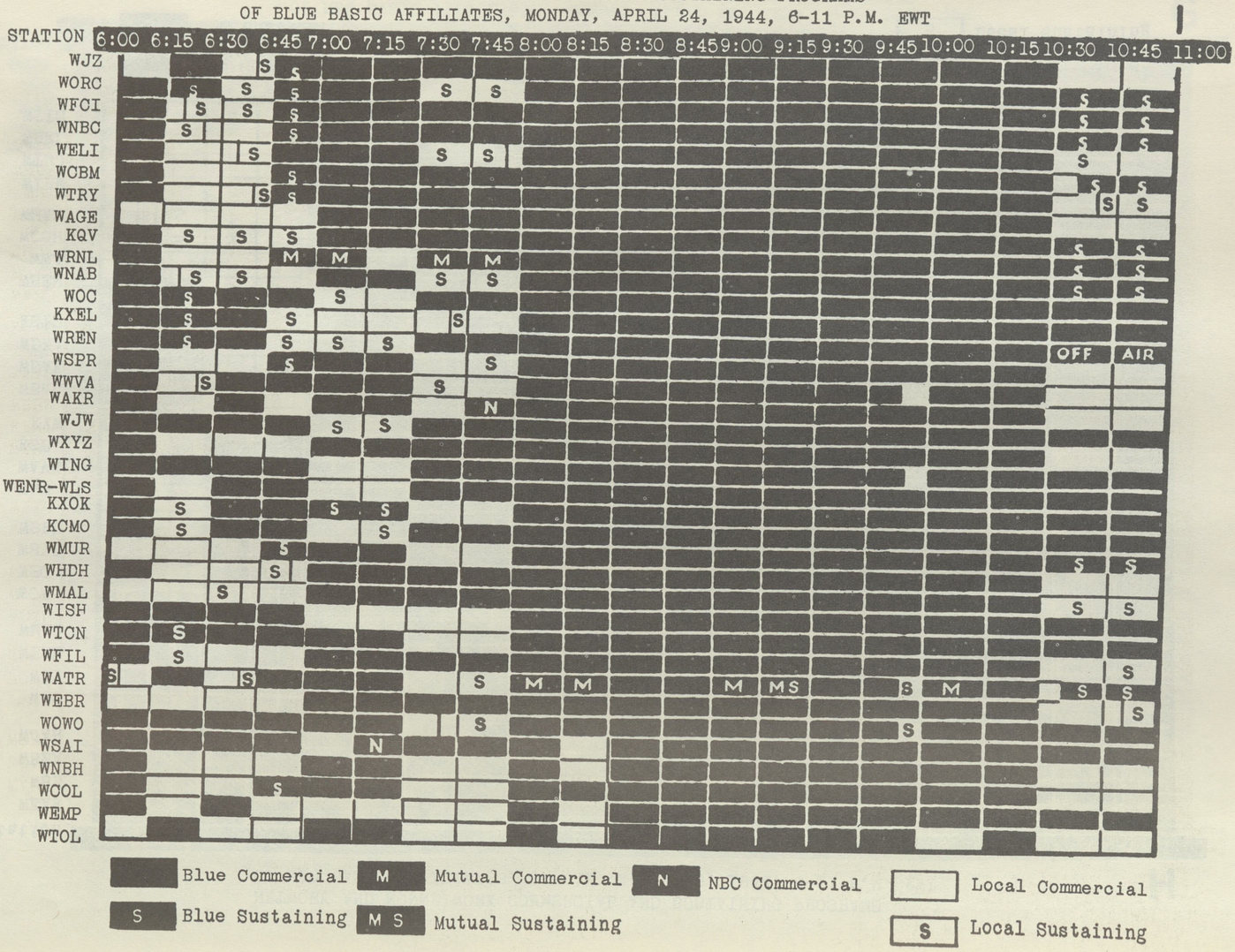
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF NBC BASIC AFFILIATES, SUNDAY, APRIL 23, 1944, 6-11 P.M. EWT

H



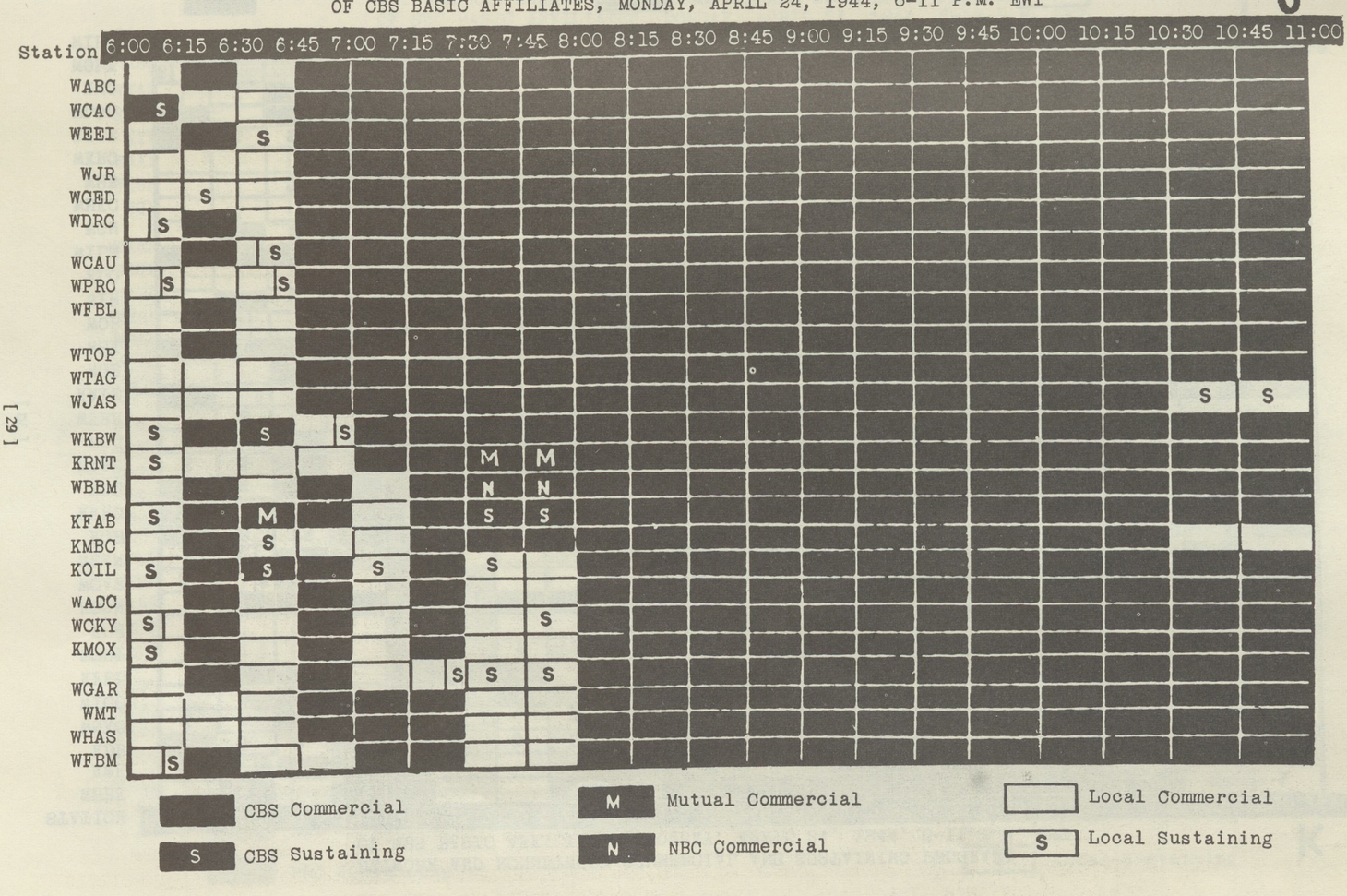
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF BLUE BASIC AFFILIATES, MONDAY, APRIL 24, 1944, 6-11 P.M. EWT

I



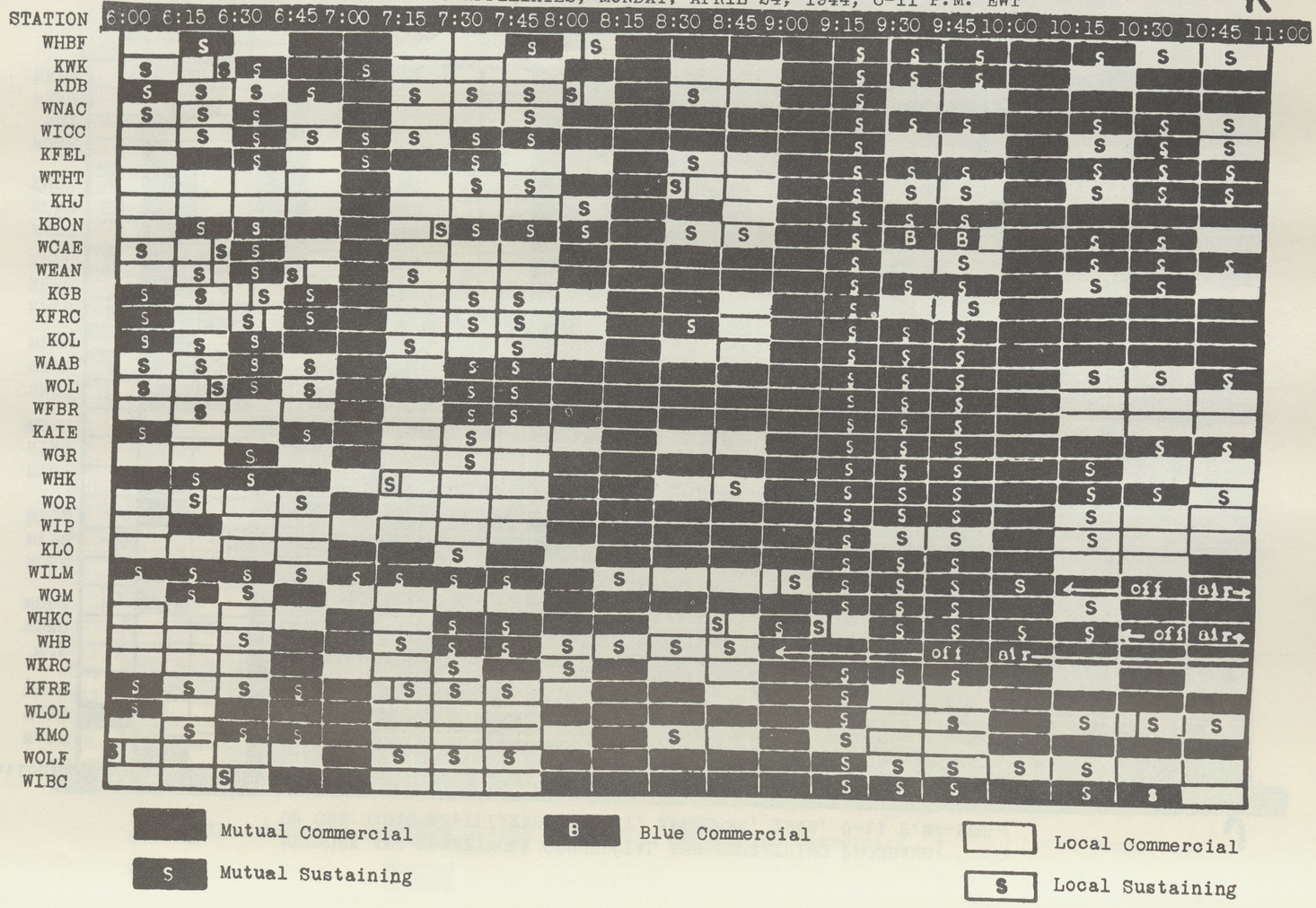
NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF CBS BASIC AFFILIATES, MONDAY, APRIL 24, 1944, 6-11 P.M. EWT

J



NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF MBS BASIC AFFILIATES,* MONDAY, APRIL 24, 1944, 6-11 P.M. EWT

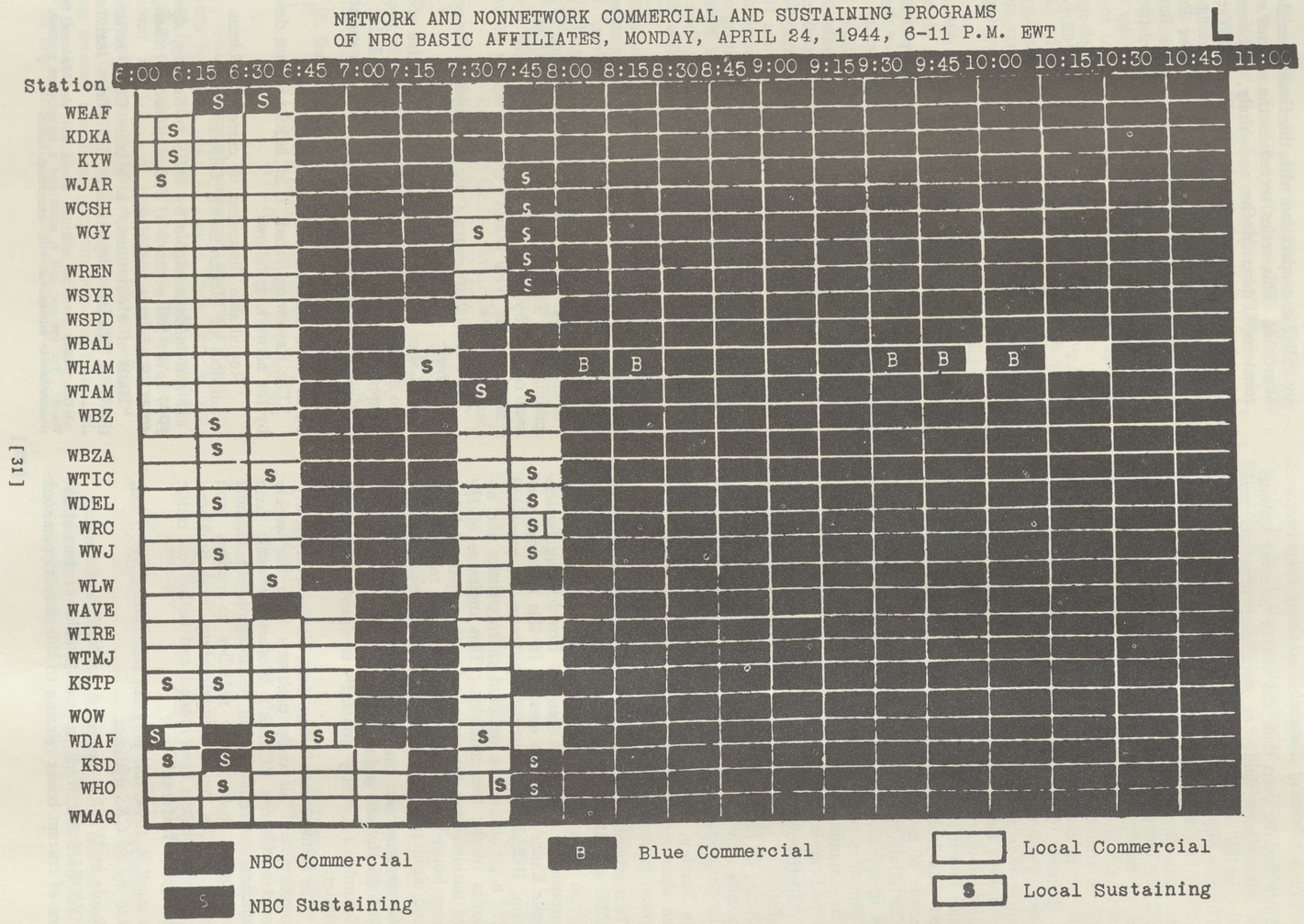
K



[30]

NETWORK AND NONNETWORK COMMERCIAL AND SUSTAINING PROGRAMS
OF NBC BASIC AFFILIATES, MONDAY, APRIL 24, 1944, 6-11 P.M. EWT

L



[31]

(7) *Statistics of Network Sustaining Programs*

More striking even than the dearth on some stations and during some hours of sustaining programs generally, is the dearth of *network* sustaining programs.

The five-fold function of sustaining programs, earlier outlined, has particular significance as it applies to network sustaining programs. These are unique in character. They command resources of talent, of writers, actors, producers, beyond the capacity of all or at least most local stations to offer. They cover many issues and subjects, treatment of which can best be given in the great metropolitan centers where network headquarters are situated. Even more important, the network sustaining program is the primary channel through which a nation-wide audience can be reached for treatment of the subjects earlier referred to as the peculiar province of sustaining programs. It is the very essence of network service that it should reach a nation-wide audience. Any factor intervening to prevent this militates against the principle of network operations.

The failure of American broadcasters to provide nation-wide distribution for even outstanding network sustaining programs can be illustrated by a few examples.

The Columbia Broadcasting System describes "Invitation to Learning" in these terms:

> "Distinguished scholars, authors, and critics meet informally on this series to discuss the outstanding classics of literature. The summer and fall schedules include a series of 31 great books to bring the total number discussed on the program to 285."

On Sunday, April 2, 1944, the most recent date for which data are available, 39 CBS stations carried this program, while 97 rejected it.

"Transatlantic Call: People to People" is described by CBS as follows:

> "On alternate Sundays the British Broadcasting Corporation and the Columbia Broadcasting System shake hands across the ocean. In this half-hour program, British and American audiences are presented with a picture of the national characteristics and attitudes of the two countries. The audiences of the two nations learn the reasons for the apparent differences between them, at the same time realizing the basic similarity of their attitudes and behavior."

This program was carried on Sunday, April 2, 1944, by 50 CBS stations and rejected by 86.

"Columbia's Country Journal" is described by CBS as follows:

> "The farmer's role in war time, his 'food for victory' campaign, and his daily problems form the weekly theme of Charles ('Chuck') Worcester's 'radio farm magazine.' Originating in Washington for national farm news, it frequently switches to various farm regions of the country highlighting local problems. Occasional reports from abroad and native folk music are regular features."

On April 8, 1944, this program was carried by 53 and rejected by 83 CBS affiliates.

"Words at War" is described by NBC as follows:

> "WORDS AT WAR, a weekly series of dramatizations of current books relating to the war, is presented by NBC in cooperation with the Council on Books in Wartime. This series served as the summer replacement for 'Fibber McGee and Molly,' and four times in eight months was cited by the Writers' War Board for its programs. Among the outstanding books dramatized on 'Words at War' were: 'Der Fuehrer,' by Konrad Heiden; 'The Veteran Comes Back,' by Dr. William Waller; 'Assignment U. S. A.,' by Selden Menefee; 'War Crimes and Punishment,' by George Creel;" etc.

This program was carried on Tuesday, May 2, 1944, the last date for which data are available, by 52 NBC stations and rejected by 61. It was broadcast over the network at 11:30 p.m., E.W.T., when listeners are comparatively few, and has since been discontinued altogether.

"The NBC Inter-American University of the Air" is described by NBC as:

> "presenting an integrated schedule of programs of high educational and cultural value * * * Its 1943 schedule included Lands of the Free, Music of the New World, For This We Fight, The Editors Speak, and Music at War—each a series of stimulating programs that proved the worth of radio as an educational medium. Programs of the NBC University of the Air are now 'assigned listening' in more than 100 colleges and universities throughout the United States. School teachers taking the 'in-service' training courses of the Board of Education of the City of New York receive credits and promotion based upon their study of Lands of the Free and Music of the New World."

The only two programs of the Inter-American University of the Air noted during the week beginning Sunday, April 30, 1944, were "Lands of the Free," broadcast from 4:30 to 4:55 p.m. on Sunday, April 30, and "Music of the New World," broadcast from 11:30 to midnight on Thursday, May 4. *"Lands of the Free" was carried by 24 NBC stations and refused by 114; "Music of the New World" was carried by 66 and refused by 60.*[12]

The NBC labor program was described by the network as follows:

> "Labor for Victory brought authoritative speakers to discuss labor's role in the war effort, in programs produced by the American Federation of Labor alternating with the Congress of Industrial Organizations."

This program was carried on Sunday, April 30, 1944 by 35 NBC stations and rejected by 104.

"The Reviewing Stand" is an MBS program described by the network as follows:

> "Roundtable discussion of current problems under auspices of Northwestern University."

It was made available by MBS on Sunday, April 23, 1944 to its full network of 216 stations. Of these, only 40 MBS affiliates carried it.

"Halls of Montezuma," a Marine Corps series from the U. S. Marine Corps base at San Diego, featured the "Sea Soldiers' Chorus" and the "Marine Symphony Orchestra." *It was carried by 50 of the 215 MBS affiliates to which it was made available on Wednesday, April 26, 1944.*

"Mutual's Radio Chapel," a sustaining religious program, was made available to all MBS affiliates. *On Sunday, April 23, 1944, thirteen MBS stations carried it.*

No comparable figures were available from the Blue Network (now the American Broadcasting Company). The extent to which network sustaining programs have been neglected is well illustrated by this failure of the Blue Network even to determine whether or not its sustaining programs were being carried. It is difficult to see how a network can maintain a well-balanced program structure or can determine which of its network sustaining programs to continue and which to replace, if it has not even determined the extent to which such programs are being carried by its affiliates.

The eight charts following page 23 show the rarity of network sustaining programs from 6 to 11 p.m. on the "basic affiliate" stations of the four major networks. Network sustaining programs are shown by a white "S" superimposed on a black square. It will be noted that the following "basic affiliates" carried no network sustaining programs whatever from 6 to 11 p.m. on Sunday, April 23, 1944:

WXYZ	WTOL	WPRO	WLW
WING	WMT	WJR	WAVE
WHDH	WGAR	WBBM	WCSH
WMAL	WCED	WKRC	WHAM
WISH	KOIL	WIBC	WIRE
WTCN	KMBC	WHO	WTMJ
WCOL	WKBW	WSYR	WDEL
WEMP	WCKY	WSPD	WTIC

Similarly, the following "basic affiliates" carried no network sustaining programs whatever on Monday, April 24, 1944 from 6 to 11 p. m.:

WELI	WISH	WCED	WCKY	WBZA
WAGE	WFIL	WDRC	KMOX	WTIC
WWVA	WEBR	WCAU	WGAR	WDEL
WAKR	WOWO	WPRO	WMT	WRC
WJW	WSAI	WFBL	WHAS	WWJ
WXYZ	WNBH	WTOP	WFBM	WLW
WING	WEMP	WTAG	KDKA	WAVE
WENR–WLS	WTOL	WJAS	KYW	WIRE
KCMO	WABC	KRNT	WSPD	WTMJ
WHDH	WEEI	WBBM	WBAL	KSTP
WMAL	WJR	KMBC	WHAM	WOW
		WADC	WBZ	WMAQ

The paucity of network sustaining programs shown on the charts following page 23 results from two factors: first, the failure of the networks to supply sustaining programs in quantity during the best listening hours and second, the failure of some stations to carry even those network sustaining programs which are offered.

The mere fact that a station does not carry an outstanding network sustaining program does not mean, of course, that it has sacrificed public interest for private gain. In any particular case, the decision to cancel a network sustaining program may be a wise one, reached on the basis of the availability of a local program of still greater public interest. To determine whether this is the case, it is necessary to compare the network sustaining program rejected with the program scheduled in its stead, and to view the network sustaining program as part of a particular station's schedule.

An example of this technique may be supplied with respect to Station WCAU. This is a 50,000-watt station, occupying an entire clear channel by itself. Station WCAU is affiliated with the Columbia Broadcasting System and is owned by the group which also controls CBS. Hence WCAU might be expected to make available to its listeners at least the outstanding CBS sustaining programs. Indeed, one of the grounds relied on by the Federal Radio Commission when awarding a clear channel to Station WCAU as against competing applicants for such assignments was that WCAU would carry the programs of the Columbia Broadcasting System. (F. R. C. Docket No. 880, decided November 17, 1931.)

Of the 3,165 minutes of network sustaining programs made available to Station WCAU by CBS during the week beginning February 8, 1945, Station WCAU broadcast 1,285 minutes, or 40.6%. From 6 p.m. to 11 p.m. throughout the week, however, Station WCAU broadcast only 55 minutes of network sustaining programs, or 20.8% of the network sustaining programs available to it during this time. On Mondays, Wednesdays, and Thursdays, WCAU broadcast no network sustaining programs whatever from 9:45 a.m. to 11 p.m. The full schedule of network sustaining programs carried by Station WCAU was as follows:

	8 a.m.-1 p.m.	1 p.m.-6 p.m.	6 p.m.-11 p.m.	11 p.m.-1:02 a.m.	Total
Sunday	180	30	none	95	305
Monday	45	none	none	65	110
Tuesday	45	none	30	65	140
Wednesday	45	none	none	65	110
Thursday	45	none	none	100	145
Friday	45	none	15	65	125
Saturday	45	200	10	95	350
Total	450	230	55	550	1,285

More than 63% of all network sustaining programs carried by WCAU between the hours of 8 a.m. and 11 p.m. were on Saturday and Sunday. Network sustaining programs from 8 a.m. to 11 p.m., by days, were broadcast as follows:

Sunday	210 minutes
Monday	45 minutes
Tuesday	75 minutes
Wednesday	45 minutes
Thursday	45 minutes
Friday	60 minutes
Saturday	255 minutes
Total	735 minutes

Among the CBS sustaining programs not carried by WCAU, and the WCAU programs substituted therefor, were the following:

[12] One station broadcast only the second half of "Music of the New World". For the first half it substituted a participating program of spot announcements interspersed with transcribed music.

SOME NETWORK SUSTAINING PROGRAMS AVAILABLE TO BUT REFUSED BY STATION WCAU

Name of CBS Sustaining Program	Description[13]	WCAU Program Substituted
FEATURE STORY 4:30–4:45 p.m. MONDAY THROUGH FRIDAY	"Members of CBS" world-wide staff of news correspondents bring to the microphone the many human interest stories that lie under the surface of the latest military and political events and usually miss being told."	"Rhona Lloyd," local talk sponsored by Aristocrat.
TRANS-ATLANTIC CALL: PEOPLE TO PEOPLE 12:30–1 p.m. SUNDAY	"On alternate Sundays, the British Broadcasting Corporation and the Columbia Broadcasting System shake hands across the ocean. In this half hour program, British and American audiences are presented with a picture of the national characteristics and attitudes of the two countries. The audiences of the two nations learn the reasons for the apparent differences between them, at the same time realizing the basic similarity in their attitudes and behavior."	"Ranger Joe", transcribed music sponsored by Ranger Joe, Inc.; "Perry Coll," music sponsored by Western Savings Fund.
CALLING PAN-AMERICA 6:15–6:45 p.m. THURSDAY	"CBS draws the Americas closer together with this weekly program shortwaved from Latin-American capitals. The series 'calls' a different nation to the microphone each Saturday, and presents a vivid radio picture of its life, culture and music."	"Ask Washington", commercial talk sponsored by Hollingshead, 15 minutes: transcribed commercial spot announcement for movie, "National Velvet," sponsored by Metro-Goldwyn-Mayer; phonograph records, "Songs of the Stars" sponsored by Breitenbach, 15 minutes.
SERVICE TIME 5:00–5:30 p.m. MONDAY THROUGH FRIDAY	"Presented in cooperation with the fighting forces, this program devotes itself to the branches of the armed service, spot-lighting the activities of a different branch each day. Various service bands and glee clubs are featured, and high ranking officials make personal appearances. There are also interviews with personnel returned from combat zones." Monday-Waves on Parade. Tuesday—It's Maritime. Wednesday—Wacs on Parade. Thursday—Marines in the Making. Friday—First in The Air.	"*Monday*—Phonograph records interspersed with spot announcements for Household Finance Company (5:03:30–5:04:30): Panther Panco Bilt Rite (5:07:30–5:00:30): National Biscuit Premium Crackers (5:11:40–5:12:40): Cuticura-Potter Chemical Company (5:16:00–5:17:00): Glenwood Range (5:19:50–5:20:50): Civil Service (Sustaining) (5:24:15–5:24:35); and weather report (5:29:00–5:29:35). *Tuesday through Friday*—similar phonograph records interspersed with similar spot announcements.
SALT LAKE TABERNACLE CHOIR AND ORGAN 12 noon–12:30 p.m. SUNDAY	"This is the oldest consecutively presented public-service series in radio, having celebrated its 785th network broadcast on July 30, 1944. The Tabernacle Choir is conducted by J. Spencer Cornwall and Richard P. Condie, assistant. Organists are Alexander Schreiner, Dr. Frank Asper and Wade M. Stephens."	"Children's Hour," sponsored by Horn & Hardart, 11:30–12:20: news comment by Carroll Alcott, sponsored by Horn & Hardart 12:20–12:30.
SALLY MOORE AND THE COLUMBIA CONCERT ORCHESTRA 6:30–6:45 p.m.	"The young American contralto, CBS' most recent discovery, presents distinctive song recitals of semi-classical music accompanied by the Columbia Concert Orchestra."	Phonograph records sponsored by Groves Laxative Bromo Quinine.

Name of CBS Sustaining Program	Description[13]	WCAU Program Substituted
MONDAY AND FRIDAY ENCORE APPEARANCE 6:30–6:45 p.m. WEDNESDAY	"The program offers further opportunity to the new singers who have given outstanding performance on CBS' 'New Voices in Song.' They are accompanied by the Columbia Concert Orchestra."	Phonograph records sponsored by Groves Laxative Bromo Quinine.
WILDERNESS ROAD 8:45–6:00 p.m. MONDAY THROUGH FRIDAY	"A dramatic serial of a pioneering American family that went through the hazardous Cumberland Gap in 1783 with Daniel Boone as their guide. The story recreates that adventure-filled period in American history when every frontier presented a challenge to the New World settlers."	*Monday*—Music by Eliot Lawrence interspersed with commerical spot announcements for Rinso (5:48:20–5:49:20): Bell Telephone (5:51:15–5:52:15): and Household Finance Company (5:55:40–5:56:40). *Tuesday through Friday*—similar music interspersed with spot announcements.
INVITATION TO LEARNING 11:30–12 noon SUNDAY	"Distinguished scholars, authors, and critics meet informally on this series to discuss the outstanding classics of literature. The winter schedule includes a new series of 30 great books to bring the total number discussed on the program to 254."	"Children's Hour," local commercial program sponsored by Horn & Hardart.
THE PEOPLE'S PLATFORM 6:16–6:45 p.m. SATURDAY	"The vital issues of today and the postwar world are analyzed weekly on this program, one of radio's most interesting forums. Four eminent guests and Lyman Bryson, CBS Director of Education, who acts as moderator gather informally for these sessions."	"Listen to Lawrence," local commercial music program sponsored by Sun Ship Company.

[13] Quoted from "CBS Program Book—Winter, 1945."

A special case of failure to carry a network sustaining program is to be noted on Sunday from 2:55 to 3:00 p.m. Beginning at 3 p.m., Station WCAU carries the New York Philharmonic program sponsored by U. S. Rubber. This program is preceded over CBS by a 5-minute introductory talk by Olin Downes, the well-known music critic, on a sustaining basis. WCAU carried the symphony for which it is paid, but rejected the sustaining introduction to the symphony in favor of a five-minute commercial program, "Norman Jay Postscript," sponsored by the Yellow Cab Company.

For a similar analysis of network sustaining programs not carried by Station WBAL, an NBC affiliate, see pp. 8-9.

It has been urged that the network sustaining program is doomed by reason of the fact that a network affiliate can carry local programs only during network sustaining periods, and that station owners quite properly reject network sustaining programs in order to leave some time available for local programs of great public interest. Station owners, on this view, should be praised for eliminating network sustaining programs from their schedules, since in this way they make possible local service to their own communities.

Prior to the enactment of Regulation 3.104, when many stations had all or substantially all of their time under option to the networks, this viewpoint had some cogency. Chain broadcasting Regulation 3.104, however, allows each station freedom to reject network *commercial* programs for two hours out of each five. Thus the individual station licensee's choice is not between broadcasting local live programs during network sustaining hours and not broadcasting them at all. On the contrary, a licensee is free to present during each segment of the broadcast day a well-balanced schedule of network and local, commercial and sustaining programs alike (except to the extent, that the network fails to deliver a reasonable proportion of network sustaining programs). The choice is not between network sustaining programs and local programs; rather it is between a balanced program structure and one which lacks such balance.

In recent months, the Commission before renewing the license of a broadcast station has compared the percentage of commercial programs actually broadcast during a sample week with the percentage which the station stated that it would broadcast in its original application. Where a serious discrepancy was noted, and where the proportion of sustaining programs appeared to be so low as to raise a question concerning the station's operation in the public interest, the station's comments were requested. The replies received indicate several

widespread misconceptions concerning the basis of Commission policy respecting commercial and sustaining programs.

First, many station licensees stated that they saw no differences between a commercial and a sustaining program, and a few even stated their belief that a station could operate in the public interest with no sustaining programs. The need for sustaining programs as a balance-wheel to make possible a well-balanced program structure, as a means of broadcasting programs inappropriate for commercial sponsorship, as a service for significant minority tastes and interests, as a service to non-profit organizations, and as a vehicle for program experimentation has been set forth on pp. 12-36).

Second, a number of stations pointed out that many of their commercial programs were clearly in the public interest. The Commission is in full accord with this view. The fact that some advertisers are broadcasting programs which serve an important public interest, however, does not relieve a station of its responsibility in the public interest. Broadcast licensees properly consider their status to be very different from the status of a common carrier, merely providing physical facilities for the carrying of matter paid for and produced by others. Broadcasters rightly insist that their function in the community and the nation is of a higher order. The maintenance of this independent status and significance, however, is inconsistent with the abnegation of independent responsibility, whether to a network or to advertisers. The conceded merit of many or most programs broadcast during periods which a broadcaster has sold to others does not relieve him of the responsibility for broadcasting his own programs during periods which he has reserved from sponsorship for public service.

Third, a few licensees have alleged that they are unable to estimate the amount of time which they will devote to sustaining programs hereafter because they cannot predict how much demand for time there will be from commercial advertisers. Such licensees have obviously abdicated to advertisers the control over their stations. The requirement of a well-balanced program structure, firmly founded in the public interest provisions of the Communications Act, is a responsibility of the station licensee. To permit advertisers to dictate either the proportion of time which the station shall devote to sustaining programs or any other major policy decision is inconsistent with the basic principles of licensee responsibility on which American broadcasting has always rested.

In their replies, many licensees have pointed out that a comparison of promise and performance with respect to sustaining programs and other categories is difficult or impossible without uniform definitions of what constitutes a commercial program, a sustaining program, etc. To meet this difficulty, the Commission is promulgating herewith uniform definitions of various program categories. (See "Uniform Definitions and Program Logs.")

B. THE CARRYING OF LOCAL LIVE PROGRAMS

All or substantially all programs currently broadcast are of four kinds: (1) network programs, including programs furnished to a station by telephone circuit from another station; (2) recorded (including transcribed) programs; (3) wire programs (chiefly wire news, syndicated to many stations by telegraph or teletype and read off the wire by a local announcer); and (4) local live programs, including remote broadcasts. For definitions of these four main classes, see "Uniform Definitions and Program Logs."

Network programs. The merit of network programs is universally recognized; indeed, the Commission's Chain Broadcasting Regulations 3.101 and 3.102 were designed in considerable part to insure a freer flow of network programs to the listener. In January 1945, approximately 47.9% of all the time of standard broadcast stations was devoted to network programs.

Transcriptions. The transcribed or recorded program has not had similar recognition. As early as 1922, the Department of Commerce by regulation prohibited the playing of phonograph records by stations having the better (Class B) channel assignments except in emergencies or to fill in between program periods; and later in the year it amended the regulation to prohibit even such use of records by Class B stations. Through the years the phonograph record, and to a lesser extent the transcription, have been considered inferior program sources.

No good reason appears, however, for not recognizing today the significant role which the transcription and the record, like the network, can play in radio programming. Five particular advantages may be cited:

(a) Transcriptions are a means of disposing of radio's most ironic anomaly—the dissipation during a single broadcast, in most cases for all time, of all the skill and labor of writer, director, producer, and cast. Transcriptions make possible the compilation of a permanent archive of the best in radio, comparable in other types of programs to the recorded symphony or chamber music. Good programs with timeless interest can thus be repeated not once but many times.

(b) Transcriptions make possible the placing of programs at convenient hours. For example, a network broadcast may either be inconvenient in time for listeners in a given time zone or may conflict with a station's commitment to its locality. By transcribing the program at the station as it comes in on the network line, the program can be made available at another and still convenient hour.[1]

(c) Transcriptions make possible the sharing of programs among stations not directly connected by wire lines. Several New York stations, for example, are currently making their outstanding programs available via transcription to stations throughout the country. Similarly, non-radio organizations can produce and distribute programs via transcription, as in the case of the award-winning children's transcription series of the Junior League.

(d) Transcriptions offer to the writer, director, and producer of programs the same technical advantages that the moving picture industry achieves through cutting-room techniques. Imperfections can be smoothed out; material recorded at different times and places can be blended into a single program, etc. While the basic advantages of this more plastic technique may not yet be fully utilized, recent developments in the transcription field, including those pioneered by the armed forces and the introduction of wire recorders, suggest a significant role for such programs in the future.

(e) Portable recorders make it possible to present to the listener the event as it occurs rather than a subsequent re-creation of it. The recording of actual press conferences, for example, and the actual battlefront recordings by the Marine Corps and Army Signal Corps point the way to an expansion of recording techniques as a means of radio reporting.

In January, 1945, approximately 32.3% of all the time of standard broadcast stations was devoted to transcriptions and recordings.

Wire Programs. The wire service, by which spot news and sometimes also other program texts are telegraphically distributed to stations, has in recent years assumed a role of increasing importance.[2] By means of wire service for news and other texts of a timely nature, plus transcriptions for programs of less urgent timeliness, the unaffiliated station can very nearly achieve the breadth of service attained through network affiliation. No statistics are currently available concerning the proportion of time devoted to wire service programs.

Local Live Programs. There remains for discussion the local live program, for which also, no precise statistics are available. It is known, however, that in January, 1945, approximately 19.7% of all the time of standard broadcast stations was devoted to local live *and* wire service programs; and that during the best listening hours from 6 to 11 p.m., approximately 15.7% of all the time was devoted to these two classes of programs combined.

In granting and renewing licenses, the Commission has given repeated and explicit recognition to the need for adequate reflection in programs of local interests, activities and talent. Assurances by the applicant that "local talent will be available"; that there will be "a reasonable portion of time for programs which include religious, educational, and civic matters"; that "time will be devoted to local news at frequent intervals, to market reports, agricultural topics and to various civic and political activities that occur in the city" have contributed to favorable decision on many applications. As the Commission noted in its *Supplemental Report on Chain Broadcasting (1941):*

> "It has been the consistent intention of the Commission to assure that an adequate amount of time *during the good listening hours* shall be made available to meet the needs of the community in terms of public expression and of local interest. If these regulations do not accomplish this objective, the subject will be given further consideration." (Emphasis supplied.)

The networks themselves have recognized the importance of local live programs. Under date of October 9, 1944, the National Broadcasting Company, when requesting the Commission to amend Chain Broadcasting Regulation 3.104, stated:

> "Over the years our affiliated stations have been producing highly important local programs in these three open hours of the morning segment. From 8 a.m. to 10 a.m. N.Y.T., most of the stations have developed variety or 'morning clock' programs which have met popular acceptance. These periods are not only profitable to the individual station but are sought for use by civic, patriotic and religious groups for special appeals because of their local listening audience appeal. Likewise, from 12 noon to 1 p.m. they have developed highly important news farm programs or other local interest shows. *To interfere with local program schedules of many years' standing would deprive our stations of their full opportunity to render a desirable local public service."* (Emphasis supplied.)

The Commission's reply, released December 20, 1944, as Mimeograph No. 79574, stated in part:

> "One purpose of Regulation 3.104 was to leave 14 of the 35 evening hours in each week free of network option, *in order to foster the development of local programs.*[3] * * * The Commission * * * concurs fully in your statement that interference with local programs which have met with public acceptance and which are sought for use by local civic, patriotic and religious groups, local church services, and other highly important local program schedules of years' standing is to be avoided." (Emphasis supplied.)

The courts have also supported the position taken by the Commission that the interests of the whole listening public require that provision be made for local program service. Where the record showed that of the two stations already functioning in an area, one carried 50 percent network programs and the other 85 percent, the court stated: "In view of this situation it is not difficult to see why the Commission decided that public interest would be served by the construction of a local non-network station."[4]

But the soundness of a local program policy does not rest solely on the consistent Commission policy of encouraging a reasonable proportion of local programs as part of a well-balanced program service. Three examples will serve to suggest that local programming may also be good business policy and may contribute to the popularity of the station. These examples were noted by Professor C. H. Sandage of the Harvard School of Business Administration, during a survey of radio advertising possibilities for retailers financed by the Columbia Broadcasting System.

(a) One 250-watt station located in the Middle West had struggled along for 4 years and lost money each year until a reorganization was forced in 1942. "The former management had attempted to compete directly with outside stations whose signals were strong in the local community. Good entertainment was provided, but no attempt was made to establish the station as a local institution interested in the life of the community.

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[1] Conversely, however, some stations appear to use the transcription technique for shifting an outstanding network public service program from a good hour to an off hour when listeners are few and commercial programs not available.

[2] For a proposed definition of "wire" programs, see "Uniform Definitions and Program Logs."

[3] The failure of Regulation 3.104 to achieve this purpose is illustrated by the eight charts following page 23, showing many stations which carried no non-network programs whatever during the evening hours on the two days analyzed.

[4] *Great Western Broadcasting Association, Inc.* v. *F. C. C.,* 94 Fed. (2d) 244, 248. In the KHMO case, the court ordered the Commission to issue a license to an applicant for a local station in an area where three stations were already operating, none of which gave genuine local service. The court expressed approval of the Commission's findings in similar cases, that "under the direct provisions of the statute the *rights of the citizens to enjoy local broadcasting privileges were being denied.*" (*Courier Post Broadcasting Co.* v. *F. C. C.,* 104 F (2) 213, 218) (Emphasis supplied).

Neither local listeners nor local businessmen supported the station.

"The new management reversed this policy completely. All attempts at copying outside stations were eliminated. Management not only studied the activities peculiar to that community but also took a personal interest in them. Station facilities were made available on a free basis to civic institutions such as the Chamber of Commerce, women's clubs, parent-teacher association, public schools, and Community Chest. School sports contests were broadcast, and other programs of distinctly local interest were developed. In a relatively short time an audience of more than 50 percent of all local radio listeners had been attracted to the station * * * At the time the new management came in, gross monthly income was $2,400 and at the end of 12 months this amount has been increased to $6,000. *The new manager attributed all improvement to the policy of making the station a real local institution and a true voice of the community.*" [5]

(b) Amateur shows have been used effectively in developing local talent. "An Illinois retailer has used this type of show for a number of years and has built an audience which in 1942 surpassed in size the audience for any other radio program broadcast at the same time * * * It was competing with John Charles Thomas, New York Philharmonic, and the Army Hour. Only the John Charles Thomas program approached the rating for the local program. As in all programs which make use of local talent of fair quality, a considerable audience was attracted because of an interest in local people." [6]

(c) A feed mill in Missouri developed a quartet called the "Happy Millers" which sang hillbilly and western music. "Public acceptance has been phenomenal, partly *because of the interest of rural people in the type of entertainment afforded but also because the entertainers are all local people and well known in the community.*" [7]

These few examples can no doubt be supplemented from their own experience by many alert station managers throughout the country.

While parallels between broadcast stations and newspapers must be approached with caution, their common elements with respect to local interest may be significant. The local newspaper achieves world-wide news coverage through the great press associations, taps the country's foremost writers and cartoonists through the feature syndicates, and from the picture services procures photographs from everywhere in abundant quantity. But the local newspaper editor, faced with such abundant incoming material, does not therefore discharge his local reporters and photographers, nor does he seek to reproduce locally the New York *Times* or *Daily News*. He appreciates the keen interest in local material and makes the most of that material—especially on the front page. The hours from 6 to 11 p.m. are the "front page" of the broadcast station. The statistics of local programming during these hours, or generally, are not impressive.

Extent of Local Live Program Service

No reliable statistics are currently available concerning the time devoted to local live programs, partly because there has heretofore been no accepted definition of "local live," partly because "wire" programs of news syndicated to many stations have been included in the local live classification, and partly because programs of phonograph records have been classified as "local live" by some stations if a live announcer intersperses advertising comments among the records. The paucity of local live, and especially local live sustaining programs, is indicated, however, by the following table which shows the time reported by 703 stations as having been devoted to local live programs in January, 1945. The table can perhaps be best interpreted as showing the time devoted to non-network, non-transcribed programs:

AVERAGE HOURS PER DAY AND PERCENTAGE OF TIME ON THE AIR DEVOTED TO LOCAL LIVE PROGRAMS BY CLASS OF STATION

For month of January, 1945

	Commercial		Sustaining	
	Hours per day	% of time on air	Hours per day	% of time on air
50 kw stations (41)	3:02	15.9	1:52	9.8
500 w—50 kw stations (214)	2:23	13.6	1:11	6.8
250 w or less stations (376)	1:43	10.7	1:00	6.3
Part time stations (72)	2:11	20.3	1:09	10.7
All stations (703)	2:02	12.7	1:07	7.0

Source: Annual Financial Reports, 1944.

From 6 to 11 p.m., moreover, non-network, non-transcribed programs are considerably rarer, amounting on the average to only 42 minutes in five hours for all stations. *Sustaining* programs of this type average only 13 minutes in five hours.

AVERAGE HOURS AND PERCENTAGE OF TIME ON THE AIR, 6–11 P. M., DEVOTED TO LOCAL LIVE PROGRAMS BY CLASS OF STATION

For Month of January, 1945

	Commercial		Sustaining	
6 p.m. to 11 p.m. only	Hours per day	% of time on air	Hours per day	% of time on air
50 kw stations (41)	:36	12.0	:12	3.9
500 w—50 kw stations (214)	:34	11.4	:14	4.7
250 w or less stations (376)	:29	9.8	:15	4.9
Part time stations (72)	:11	15.0	:07	8.7
All stations (703)	:29	10.6	:13	4.9

Source: Annual Financial Reports, 1944.

On particular stations, of course, the picture is even more extreme. The eight charts following page 23, above, for example, show in white the time devoted to non-network programs by the "basic affiliates" of the four major networks. It will be noted that on Sunday, April 23, 1944, the following stations carried no non-network programs whatever—and hence no local live programs—during the best listening hours from 6 to 11 pm.:

WORC	WAGE	WMT	WCAU	KDB	WGY
WFCI	KQV	WDRC	WJAS	WBZ	WTAM
WNBC	WADC	WFBM	WTOP	WBZA	WMAQ
WCBM	WCAO	KFAB	WHBF	WJAR	WOW
WTRY	WEEI	WHAS	KWK	WRC	

In the face of this progressive blackout of non-network programs during the best listening hours on many stations, it has been proposed that some stations be licensed exclusively for non-network broadcasting, and that the Commission regulations prohibit the carrying of network programs by stations so licensed. This proposal appears impracticable. In communities where the number of stations does not exceed the number of networks, the result would be to deprive listeners of regular network service from one or more of the networks. In communities where the number of stations exceeds the number of networks, moreover, the regulation would be of little practical value since in such communities one or more of the stations will remain without a network affiliation in any event. The solution to network monopolization of a station's time, accordingly, must be found in terms of a balance of network and non-network programs, rather than in a distinction between network and non-network stations.

The most immediately profitable way to run a station, may be to procure a network affiliation, plug into the network line in the morning, and broadcast network programs throughout the day—interrupting the network output only to insert commercial spot announcements, and to substitute spot announcements and phonograph records for outstanding network sustaining programs. The record on renewal since April, 1945, of standard broadcast stations shows that some stations are approaching perilously close to this extreme. Indeed, it is difficult to see how some stations can do otherwise with the minimal staffs currently employed in programming.

For every three writers employed by 834 broadcast stations in October, 1944, there were four salesmen employed. For every dollar paid to the average writer, the average salesman was paid $2.39. And in terms of total compensation paid to writers and salesmen, the stations paid $3.30 for salesmen for every $1.00 paid for writers. The comparable relationship for 415 local stations is even more unbalanced.[8]

The average local station employed less than ⅓ of a full time musician and less than ⅙ of a full time actor.[9]

Such figures suggest, particularly at the local station level, that few stations are staffed adequately to meet their responsibilities in serving the community. A positive responsibility rests upon local stations to make articulate the voice of the community. Unless time is earmarked for such a purpose, unless talent is positively sought and given at least some degree of expert assistance, radio stations have abdicated their local responsibilities and have become mere common carriers of program material piped in from outside the community.

C. DISCUSSION OF PUBLIC ISSUES

American broadcasters have always recognized that broadcasting is not merely a means of entertainment, but also an unequaled medium for the dissemination of news, information, and opinion, and for the discussion of public issues. Radio's role in broadcasting the election returns of November 1920 is one of which broadcasters are justly proud; and during the quarter of a century which has since elapsed, broadcasting has continued to include news, information, opinion and public discussion in its regular budget of program material.

Especially in recent years, such information programs as news and news commentaries have achieved a popularity exceeding the popularity of any other single type of program. The war, of course, tremendously increased listener interest in such programs; but if broadcasters face the crucial problems of the post-war era with skill, fairness, and courage, there is no reason why broadcasting cannot play as important a role in our democracy hereafter as it has achieved during the war years.

The use of broadcasting as an instrument for the dissemination of news, ideas, and opinions raises a multitude of problems of a complex and sometimes delicate nature, which do not arise in connection with purely entertainment programs. A few such problems may be briefly noted, without any attempt to present an exhaustive list:

(1) Shall time for the presentation of one point of view on a public issue be sold, or shall all such presentations of points of view be on sustaining time only?

(2) If presentations of points of view are to be limited only to sustaining time, what measures can be taken to insure that adequate sustaining time during good listening hours is made available for such presentations, and that such time is equitably distributed?

(3) If time is also on occasion to be sold for presentation of a point of view, what precautions are necessary to insure that the most time shall not gravitate to the side prepared to spend the most money?

(4) Are forums, town meetings, and round-table type broadcasts, in which two or more points of view are aired together, intrinsically superior to the separate presentation of points of view at various times?

(5) Should such programs be sponsored?

(6) What measures will insure that such programs be indeed fair and well-balanced among opposing points of view?

(7) Should locally originated discussion programs, in which residents of a community can themselves discuss issues of local, national, or international importance be encouraged, and if so, how?

(8) How can an unbiased presentation of the news be achieved?

(9) Should news be sponsored, and if so, to what extent should the advertiser influence or control the presentation of the news?

(10) How and by whom should commentators be selected?

(11) Should commentators be forbidden, permitted, or encouraged to express their own personal opinions?

(12) Is a denial of free speech involved when a commentator is discharged or his program discontinued because something which he has said has offended (a) the advertiser, (b) the station, (c) a minority of his listeners, or (d) a majority of his listeners?

(13) What provisions, over and above Section 315 of the Communications Act of 1934[10], are necessary or

[5] Sandage, *Radio Advertising for Retailers*, p. 210. (Emphasis supplied.)
[6] Ibid., pp. 166-167.
[7] Ibid., p. 161. (Emphasis supplied.)

[8] In the week of October 15, 1944, 834 stations employed 863 writers at an average compensation of $40.14, totalling $34,641; and 1195 salesmen at an average compensation of $95.92, totalling $114,624. The 415 local stations employed 259 writers full time at an average salary of $31.87 but employed 409 salesmen at an average of $68.85.
[9] Many or most stations are financially able to employ far larger program staffs than at present. See Part IV, pp. 47-54.

[10] "Sec. 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."

desirable in connection with the operation of broadcast stations during a political campaign?

(14) Does a station operate in the public interest which charges a higher rate for political broadcasts than for commercial programs?

(15) The Federal Communications Commission is forbidden by law to censor broadcasts. Should station licensees have the absolute right of censorship, or should their review of broadcasts be limited to protection against libel, dissemination of criminal matter, etc.?

(16) Should broadcasters be relieved of responsibility for libel with respect to broadcasts over which they exercise no control?

(17) Should the "right to reply" to broadcasts be afforded; and if so, to whom should the right be afforded, and under what circumstances?

(18) When a station refuses time on the air requested for the discussion of public issues, should it be required to state in writing its reasons for refusal? Should it be required to maintain a record of all such requests for time, and of the disposal made of them?

(19) What measures can be taken to open broadcasting to types of informational programs which contravene the interests of large advertisers—for example, news of the reports and decisions of the Federal Trade Commission concerning unfair advertising; reports of the American Medical Association concerning the effects of cigarette-smoking; temperance broadcasts; etc?

These are only a few of the many questions which are raised in complaints to the Commission from day to day. The future of American broadcasting as an instrument of democracy depends in no small part upon the establishment of sound solutions to such problems, and on the fair and impartial application of general solutions to particular cases.

Under the Communications Act, primary responsibility for solving these and similar issues rests upon the licensees of broadcast stations themselves. Probably no other type of problem in the entire broadcasting industry is as important, or requires of the broadcaster a greater sense of objectivity, responsibility, and fair play.

While primary responsibilty in such matters rests with the individual broadcaster, the Commission is required by the statute to review periodically the station's operation, in order to determine whether the station has in fact been operated in the public interest. Certainly, the establishment of sound station policy with respect to news, information, and the discussion of public issues is a major factor in operation in the public interest.

The Commission has never laid down, and does not now propose to lay down, any categorical answers to such questions as those raised above. Rather than enunciating general policies, the Commission reaches decisions on such matters in the crucible of particular cases.[11]

One matter of primary concern, however, can be met by an over-all statement of policy, and must be met as part of the general problem of over-all program balance. This is the question of the *quantity* of time which should be made available for the discussion of public issues.

The problems involved in making time available for the discussion of public issues are admittedly complex. Any vigorous presentation of a point of view will of necessity annoy or offend at least some listeners. There may be a temptation, accordingly, for broadcasters to avoid as much as possible any discussion over their stations, and to limit their broadcasts to entertainment programs which offend no one.

To operate in this manner, obviously, is to thwart the effectiveness of broadcasting in a democracy.

A test case may illustrate the problem here raised. At the request of the Senate Committee on Interstate Commerce, the Commission undertook a study of all network and local programs broadcast from January 1, 1941 through May 31, 1941, relative to the foreign policy issue then before the country, that of isolationism versus intervention in the world conflict. The period reviewed was one of great crisis. The issue at stake would affect the history and even the survival of our country and its institutions. Five major questions of foreign policy were involved—lend-lease, the convoying of ships to Britain, the acquisition of foreign bases, the acquisition of foreign ships, and the maintenance of the British blockade. From this study the following facts emerged.

The four major networks submitted 532 programs. Upon analysis only 203 scripts were deemed revelant; 14 scripts were unobtainable.

Assuming all 14 of these scripts to have been relevant, this means that 217 scripts during a 5-month period dealt with the 5 major issues of foreign policy listed above. Put another way, each network broadcast a program devoted to one or more of these issues every third day.

But while the networks made these programs available, not all affiliated stations carried them. Of 120 CBS affiliates, 59.3% carried the average lend-lease program. Of 165 MBS affiliates, 45.5% carried it. Of the approximately 200 NBC stations on both Red and Blue networks of NBC, 69 stations carried the average NBC program on lend-lease.

Even more significant are the figures relating to non-network programs. Of 842 stations reporting, only 288 claimed to have originated even one program on any subject relevant to this study. The remaining 454 denied having broadcast a single non-network program on foreign policy during the entire 5-month period. While subject to possible sampling error, the study indicates that station time devoted to discussion programs distributed by the four networks exceeded station time devoted to discussion programs originated by the stations in the ratio of 30 to 1.

The carrying of any particular public discussion, of course, is a problem for the individual broadcaster. But the public interest clearly requires that an adequate amount of time be made available for the discussion of public issues; and the Commission, in determining whether a station has served the public interest, will take into consideration the amount of time which has been or will be devoted to the discussion of public issues.

D. ADVERITISING EXCESSES

(1) *Value of advertising*

Advertising represents the only source of revenue for most American broadcasting stations, and is therefore an indispensable part of our system of broadcasting. In return for spending some 397 million dollars per year [1] on American broadcasting, the advertiser can expect that his name and wares will be effectively made known to the public.

Advertising in general, moreover, and radio advertising in particular, plays an essential role in the distribution of goods and services within our economy. During the postwar era if manufacturers are to dispose of the tremendous output of which our postwar industry will be capable, they must keep their products before the public.

Finally, informative advertising which gives reliable factual data concerning available goods and services is itself of direct benefit to the listener in his role as consumer. Consumer knowledge of the new and improved products which contribute to a higher standard of living is one of the steps toward achieving that higher standard of living.

However, the fact that advertisers have a legitimate interest and place in the American system of broadcasting does not mean that broadcasting should be run solely in the interest of the advertisers rather than that of the listeners. Throughout the history of broadcasting, a limitation on the amount and character of advertising has been one element of "public interest." A brief review will illustrate this point.

(2) *Historic Background*

Commercial broadcasting began in 1920 or 1921, and by 1922 the dangers of excessive advertising had already been noted. Thus at the First Annual Radio Conference in 1922, Secretary of Commerce Herbert Hoover declared:

> "It is inconceivable that we should allow so great a possibility for service, for news, for entertainment, for education and for vital commercial purposes to be drowned in advertising chatter. * * *"

The Conference itself took heed of Secretary Hoover's warning and recommended:

> "* * * that direct advertising in radio broadcasting service be absolutely prohibited and that indirect advertising be limited to the announcements of the call letters of the station and of the name of the concern responsible for the matter broadcasted, subject to such regulations as the Secretary of Commerce may impose."

In 1927, following the passage of the Radio Act, advertising abuses were among the first topics to engage the attention of the newly established Federal Radio Commission. Thus, in its first formal statement of the "broad underlying principles which * * * must control its decisions on controversies arising between stations in their competition for favorable assignments," one of the "broad underlying principles" set forth was that "the amount and character of advertising must be rigidly confined within the limits consistent with the public service expected of the station." To quote further:

> "* * * The Commission must * * * recognize that without advertising, broadcasting would not exist, and *must confine itself to limiting this advertisement in amount and in character* so as to preserve the largest possible amount of service to the public. Advertising must be accepted for the present as the sole means of support of broadcasting, and *regulation must be relied upon to prevent the abuse and over use of the privilege.*" [2] (Emphasis supplied.)

This general principle was applied in particular cases, especially in connection with actions on renewal of station licenses. Thus in announcing, on August 23, 1928, its decision not to renew the license of Station WCRW, the Commission stated:

> "It is clear that a large part of the program is distinctly commercial in character, consisting of advertisers' announcements and of direct advertising, including the quoting of prices. An attempt was made to show a very limited amount of educational and community civic service, but the amount of time thus employed is negligible and evidence of its value to the community is not convincing. Manifestly this station is one which exists chiefly for the purpose of deriving an income from the sale of advertising of a character which must be objectionable to the listening public and without making much, if any, endeavor to render any real service to the public."

The station's license was not renewed.

It was urged in some quarters, then as now, that the Commission need not concern itself with program service because whenever the public found a broadcast irksome, listeners would shift to other stations and the situation would thus automatically correct itself. The Federal Radio Commission, in announcing on August 29, 1928 its decision to place Stations WRAK, WABF, WBRE, and WMBS "on probation" by renewing their license for 30 days only, rather than for the customary 90 days, gave short shrift to this argument. It stated:

> "Listeners are given no protection unless it is given to them by this Commission, for they are powerless to prevent the ether waves carrying the unwelcome messages from entering the walls of their homes. Their only alternative, which is not to tune in on the station, is not satisfactory, particularly when in a city such as Erie only the local stations can be received during a large part of the year. When a station is misused for such a private purpose the entire listening public is deprived of the use of a station for a service in the public interest."

Despite the Federal Radio Commission's concern with excessive advertising, there is reason to believe that substantial Congressional sentiment considered the Commission too lax in the exercise of its functions with respect to advertising. Thus on January 12, 1932, the Senate passed Senate Resolution 129, introduced by Senator Couzens, then chairman of the Senate Committee on Interstate Commerce, which provided in part as follows:

> "Whereas there is growing dissatisfaction with the present use of radio facilities for purposes of commercial advertising: Be it
>
> "Resolved, That the Federal Radio Commission is hereby authorized and instructed to make a survey and to report to the Senate on the following questions:

[11] See, for example, the *Mayflower* case, 8 F.C.C. 333, and *United Broadcasting Company (WHKC)* case, decided June 26, 1945.

[1] See p. 54.

[2] *In re Great Lakes Broadcasting Co.*, F.R.C. Docket No. 4900.

"1. What information there is available on the feasibility of Government ownership and operation of broadcasting facilities.
"2. To what extent the facilities of a representative group of broadcasting stations are used for commercial advertising purposes.
"3. To what extent the use of radio facilities for purposes of commercial advertising varies as between stations having power of one hundred watts, five hundred watts, one thousand watts, five thousand watts, and all in excess of five thousand watts.
"4. What plans might be adopted to reduce, to limit, to control, and perhaps, to eliminate the use of radio facilities for commercial advertising purposes.
"5. What rules or regulations have been adopted by other countries to control or to eliminate the use of radio facilities for commercial advertising purposes.
"6. Whether it would be practicable and satisfactory to permit only the announcement of sponsorship of programs by persons or corporations." [3]

(3) *Evolution of Industry Standards*

(a) *Commercials in sponsored programs.* Broadcasters and advertisers themselves have always recognized the basic doctrine that advertising must be limited and abuses avoided. Thus, Mr. Herbert Wilson Smith, of the National Carbon Company, sponsors of the Ever-Ready Hour, testified before the House Merchant Marine and Fisheries Committee concerning radio legislation on January 7, 1926:

"* * * When these musical and semi-dramatic programs are given, we precede the program by some such announcement as this one, for example, on December 15, 1925.

" 'Tuesday evening means the Ever-Ready Hour, for it is on this day and at this time each week that the National Carbon Company, makers of Ever-Ready flashlights and radio batteries, engages the facilities of these 14 radio stations to present its artists in original radio creations. Tonight the sponsors of the hour have included in the program, etc.'

"Now, that is the extent of the advertising, direct or indirect, of any character which we do in connection with our program. * * * The statement of the name of your company or the sponsorship of the program must be delicately handled so that the listener will not feel that he is having advertising pushed over on him; then throughout the rest of the entertainment, there is given a very high-class program, a musical program, entirely for the pleasure of the listeners." (*Hearings on H. R. 5589,* 69th Cong., 1st sess., pp. 81-82.)

On March 25, 1929 the National Association of Broadcasters, composed at that time of 147 broadcast stations throughout the country, adopted "Standards of Commercial Practice" which specifically provided:

"Commercial announcements, as the term is generally understood, shall not be broadcast between 7 and 11 p.m."

In 1930 Mr. William S. Hedges of Station WMAQ, then president of the National Association of Broadcasters and now vice-president of the National Broadcasting Company, testified before the Senate Committee on Interstate Commerce concerning the quantitative limits on advertising which he then enforced.[4]

"The Chairman (Senator Couzens). What portion of a 30-minute program would you say should be devoted to advertising?

"Mr. Hedges. It all depends on the way you do it. Our rule, however, in our station is that no more than one minute out of the 30 minutes is devoted to advertising sponsorship. In other words, the radio listener gets 29 minutes of corking good entertainment, and all he has to do is to learn the name of the organization that has brought to him this fine program.

"The Chairman. Do all of the advertisers on your station confine themselves to 1 minute of advertising out of thirty minutes?

"Mr. Hedges. Some of them do not use as much as that.

"The Chairman. And some use more?

"Mr. Hedges. Very few." (pp. 1752-3)

Mr. William S. Paley, until recently president of the Columbia Broadcasting System, testified in the same hearings that only 22 percent of the time of CBS, or 23 hours per week out of 109½ hours of operation, was devoted to commercial programs; the remaining 78 percent of the time was sustaining (pp. 1796-9). He cited the "CBS Credo" on advertising:

"No overloading of a program with advertising matter, either through announcements that are too long or by too frequent mention of a trade name or product." (p. 1801).

Mr. Paley testified further:

"Senator Dill. How much of the hour do you allow for advertising in a program of an hour, or how much in a program of half an hour?

"Mr. Paley. Well, that varies, Senator Dill. I do not know how many seconds or how many minutes during an hour we actually give for the advertising time, but a few weeks ago our research department told me that of all the time used on the air during a particular week, that the actual time taken for advertising mention was seven-tenths of 1 percent of all our time." (p. 1802).

Since 1930, there has been a progressive relaxation of industry standards, so that the NAB standards at present permit as much as one and three-quarter minutes of advertising in a five-minute period, and do not even require this limit on participating programs, "musical clocks", etc. The *NAB Code* provisions in effect from 1937 to 1945 were as follows:

"Member stations shall hold the length of commercial copy, including that devoted to contests and offers, to the following number of minutes and seconds:

[3] The Commission's study made pursuant to this Resolution was published as Senate Document 137, 72nd Cong. 1st sess.

[4] Senate Committee on Interstate Commerce, *Hearings on S. 6,* 71st. Cong., 2d sess.

"Daytime

"Five-minute programs	2:00
*Five-minute news programs	1:45
Ten-minute programs	2:30
Fifteen-minute programs	3:15
Twenty-five minute programs	4:15
Thirty-minute programs	4:30
Sixty-minute programs	9:00

"Nighttime

"Five-minute programs	1:45
*Five-minute news programs	1:30
Ten-minute programs	2:00
Fifteen-minute programs	2:30
Twenty-five minute programs	2:45
Thirty-minute programs	3:00
Sixty-minute programs	6:00

"*Further restriction by individual stations is recommended.

"Exceptions:

"The above limitations do not apply to participation programs, announcement programs, 'musical clocks', shoppers' guide and local programs falling within these general classifications.

"Because of the varying economic and social conditions throughout the United States, members of the NAB shall have the right to present to the NAB for special ruling local situations which in the opinion of the member may justify exceptions to the above prescribed limitations."

In August 1945 these standards were further amended to eliminate the day-night differential, and to apply the former nighttime maxima to all hours.

(b) *Spot Announcements.* In addition to the commercials within sponsored programs, there are, of course, commercial spot announcements within or between programs. No standard appears to be generally accepted for limiting spot announcements—though one network has recently announced with respect to its owned stations that commercial spot announcements must be limited to 1 minute or 125 words, that not more than three may be broadcast in any quarter-hour, that "station-break" spot announcements must be limited to 12 seconds or 25 words, and that these must not be more frequent than one each quarter-hour. The result is to permit 12 minutes and 48 seconds of spot announcements per hour. The NAB standards place no limitation whatever on spot announcements.

(4) *Present Practices: Time Devoted to Commercials*

In addition to the general relaxation of advertising standards in recent years, there is abundant evidence that even the present NAB standards are being flouted by some stations and networks.

As a rough index to contemporary advertising practices, the Commission recorded the programs of the six Washington, D. C., stations for Friday, July 6, 1945, and analyzed the recordings and station logs for that day. The Washington stations comprise:

WRC—a 5,000-watt regional station, owned by the National Broadcasting Company.

WTOP—a 50,000-watt clear-channel station, owned and operated by the Columbia Broadcasting System.

WMAL—a 5,000-watt regional station, owned by the Washington *Evening Star,* affiliated with the American Broadcasting Company (Blue Network).

WOL—a 1,000-watt regional station licensed to the Cowles Broadcasting Company and affiliated with the Mutual Broadcasting System.

WINX—a 250-watt local station licensed to the Washington Post.

WWDC—a 250-watt local station licensed to the Capital Broadcasting Company.

It seems reasonable to suppose that these six stations, operating in a major metropolitan area and the capital of the country, including two stations owned by major networks and two others affiliated with major networks would represent practices superior to the practices of stations generally.

Frequent examples of commercial advertising in excess of *NAB* standards were noted on all four networks and all six stations. The results of the study suggest that on networks and stations alike, the NAB standards are as honored in the breach as in the observance.

(5) *Other advertising problems*

The proportion of overall time devoted to advertising commercials, discussed above, is only one of a series of problems raised by present network and station policies. No thorough study has been made of these other advertising problems, and accordingly, the following paragraphs should be considered as suggestive only, and designed to stimulate further research in this field. More light is needed both on the nature of existing practices and on their effect. A partial list of advertising problems other than the proportion of time devoted to advertising includes:

(a) *Length of individual commercials.* One commercial recorded by the Commission ran for just five minutes, without program interruption of any kind.

That many advertisers are content with spot announcements of reasonable length is indicated by the following table showing the scheduled length of 70 commercial spot announcements broadcast over Station WCAU on Monday, February 12, 1945, between 8 a.m. and 11 p.m.:

No. of 15-second commercial spot announcements	2
No. of 20-second " " "	2
No. of 25-second " " "	36
No. of 30-second " " "	2
No. of 45-second " " "	1
No. of 60-second " " "	26
No. of 95-second " " "	1
	70

On the other hand, some advertisers are frankly of the opinion that the longer the commercial plug, the more effective the program. Mr. Duane Jones, president of an advertising agency said to be one of the five largest in New York, placing more than 2,000 commercials a week for 26 clients, has given forceful expression to this view:

"In dealing with advertising on the air, we in the Duane Jones Co. have found that, when we increase

the length and number of commercials on the air to test our programs, invariably their Crossley ratings go up. * * * When making these tests, we load the programs to the limit under NAB rulings with commercials that precede, interrupt, and follow these broadcasts. And we know from the results that any arbitrary curtailment of commercials would seriously impair the audience value of these shows."

This view does not appear to be universally held; and evidence is available that lengthy commercials result in listeners tuning out a program. Thus Variety for May 2, 1945, reported:

"TOO MANY PLUGS COOL 'ROMANCE'

"Colgate's 'Theatre of Romance' is going way overboard on commercial spiels each week, CBS execs pointed out to Sherman, Marquette agency chiefs on Friday (27)—and it must stop immediately for the good of the program and the web's rating, they added.

"A chart-check over a two-month period shows that the commercials on 'Romance' run anywhere from three minutes and 15 seconds to four and one-half minutes. CBS' ruling on the commercial's time-limit for 30-minute sponsored shows, proved over the years, is three minutes. Over that, according to researchers at the network, listeners become restless, continuity is uneven and the stanza suffers in rating.

* * * * *

"Charts show that the drama picks up rating shortly after going on the air, and that every time a commercial is spieled, the rating sags. On 'Romance', too, for a full two minutes before it goes off each week during which the surveys were taken, ratings drop as much as three points. And on many shows, besides the Colgate blurbs, the announcer pitches in with a government-agency plug as well.

"Sherman, Marquette will have to hold the commercials within the three-minute limit, or less, from here on in, CBS has informed them." [5]

A study of the six Washington stations for Friday, July 6, 1945, from 8 a.m. to 11 p.m. suggests that commercials one minute or more in length are quite common. More than 150 such announcements were noted on the six Washington stations during that period.

(b) *Number of commercials.* The extreme case of an excessive *number* of spots noted to date is Station KMAC, which broadcast 2215 commercial announcements in 133 hours on the air during the week beginning January 21, 1945. This was an average of 16.7 spots per hour. Spot announcements in excess of 1,000 per week have been noted on a number of stations.

(c) *Piling up of commercials.* The listener who has heard one program and wants to hear another has come to expect a commercial plug to intervene. Conversely, the listener who has heard one or more commercial announcements may reasonably expect a program to intervene. Listed below is a series of commercial spot announcements broadcast by Station WTOL in Toledo, on November 14, 1944, during the dinner hour, without program interruption:

6:39:30 p.m.	Transcribed spot announcement.
6:40:00	Live spot announcement.
6:41:00	Transcribed spot announcement.
6:42:00	" " "
6:43:00	" " "
6:44:00	" " "

This programless period occurred each weekday dinner hour during the week of November 13, 1945, except on Thursday, when Station WTOL interrupted its spots to broadcast one minute of transcribed music.

Such series are not unique. The "hitch-hiker" and "cowcatcher" on network programs, now rarer but not yet exterminated, have at times meant that a listener desiring to hear two consecutive network programs must survive five intervening commercial plugs—the closing plug of the first program, a "hitch-hiker" plug for another product of the same sponsor, a local plug in the station break between programs, a "cowcatcher" for a minor product of the sponsor of the second network program, and finally the opening commercial of the second program.

Professor C. H. Sandage, in his survey of radio advertising by retailers, has pointed out that excessive spot announcements may even destroy advertiser confidence in broadcasting:

> "There is real danger that excessive use of spots will drive not only listeners away from a station but also a number of advertisers whom some refer to as the more respectable. A Midwest jeweler who operated a first-class, noninstallment credit store reported that he had cancelled his use of radio because he felt that radio management in his city had allowed the air to become too crowded with spot announcements. He also believed that many announcements were purchased by firms selling cheap and shoddy merchandise. Another advertiser reported: 'Radio announcements are O. K. for loan sharks but not for me.' Similar comments were sufficiently frequent to indicate that this factor had kept a number of retailers from using the facilities of radio." [6]

(d) *Time between commercials.* Listener satisfaction may depend in part upon the length of the intervals between commercials. The National Association of Broadcasters may have been recognizing this feature of the commercial when in 1929 it banned commercial announcements between 7 and 11 p.m., thus affording four hours of listening uninterrupted by commercial advertising—as distinguished from announcement of the name of the advertiser and of his product.

Some stations and some advertisers are becoming aware of the value of uninterrupted listening. Thus the WOL program on July 9, 1945 from 7:30 to 7:58 p.m. made a point of announcing that the four movements of a symphony would be played "without interruption."

[5] Television may bring still longer commercials. *Variety* for March 14, 1945, reports:

"A new venture in video experimentation, as far as a Chicago station is concerned, will be tried Tuesday (20) when a 3½-minute commercial is aired over WBKB, Balaban & Katz station here. Designed to fill in the air time between studio programs, the package is completely canned and is composed of slide film, synchronized to a recorded musical background and narration with the video part entirely cartooned.

"Set up as a Red Heart dog food commercial, it was produced by David W. Doyle, associate radio director of the Henri, Hurst & McDonald, Inc., agency; written by Betty Babcock and narrated by Ray Suber. Following tests here it may later be used on WNBT (NBC) and WABD (DuMont), New York."

[6] Sandage, *Radio Advertising for Retailers*, p. 186.

(e) *The middle commercial.* The Radio Council of Greater Cleveland, composed of representatives of 112 organizations having a total membership of 155,000, conducted a questionnaire survey in 1945 with respect to the "middle commercial" and related problems. The study, while perhaps subject to considerable sampling error, nevertheless indicates roughly the extent of listener dissatisfaction. More than 95 percent of those responding stated that they preferred commercials only at the beginning and end.

Canadian regulations prohibit the middle commercial on newscasts altogether. Canadian Regulation 13(2), adopted November 17, 1941, provides in part:

> "The only announcement of sponsorship for news * * * shall be two in number, one at the beginning and one at the end, and shall be as follows:
>
> " 'Through the courtesy of (name and business of sponsor) Station — presents (presented) the news of the day furnished by (name of news service)'."

The Association of Radio News Analysts, a group whose own livelihood depends upon commercial newscasts, has been among those who believe the middle commercial to be an unhealthy growth. Article IV of the *ARNA Code* of Ethics states:

> "The association deplores the interruption of a news analysis by commercial announcements."

Many members of the ARNA, which includes outstanding news analysts and commentators throughout the country, refuse to appear on a program which is interrupted by a middle commercial. Raymond Swing, in a telegram to the St. Louis *Post-Dispatch* published February 5, 1945, described his own experience with the middle commercial:

> "I made my own rebellion against them on May 10, 1940, when writing my broadcast reporting German violation of French, Belgian, Dutch and Luxembourg neutrality in launching the Western offensive. It seemed hideous to have this account interrupted by a sales talk, and I balked.
>
> "To the credit of Mutual officials, for whom I was then broadcasting, and the advertising agency handling the program, they supported my stand. Since then my contracts for broadcasts on the Blue network have specified that my program not be interrupted by middle commercials.
>
> "Listeners are entitled to hear the news without jarring interruptions, and I feel confident it is sound advertising policy to recognize the right."

Despite the successful revolt of Mr. Swing and some others, it should be noted that as late as Friday, July 6, 1945, recording of broadcasts on the six Washington stations showed some news and analysis programs being interrupted by commercials on all four networks and all six stations.

The St. Louis *Post-Dispatch* has carried on for some months a concerted campaign against the middle commercial in newscasts, and has been followed by newspapers throughout the country. Leaders in the campaign have been other newspapers which, like the *Post-Dispatch*, are themselves the licensees of standard broadca stations.

Judge Justin Miller, then of the United States Circuit Court of Appeals and now president of the National Association of Broadcasters, commented on the middle commercial and the *Post-Dispatch* campaign in a letter to the editor published April 20, 1945:

> "I have just read in *Broadcasting* a reprint of your editorial of April 10, 'In the Interest of Radio.' Let me add my voice to that of others who have commended you for the position which you have taken.
>
> "There is no more reason why a newscast should be interrupted for a plug-ugly than that such ads should be inserted in the middle of news stories or editorials in a newspaper; especially when the interruption—deliberately or unconsciously, whichever it may be—is in nauseating contrast to the subject under discussion by the commentator.
>
> "It is particularly encouraging that this insistence upon higher professional standards should come from a newspaper—a representative of the profession which has most intelligently through the years defended the guarantees of the first amendment. Only by intelligent anticipation of public reaction and by equally intelligent self-discipline can we prevent legislative intemperance."

While many stations and some sponsors deleted the middle commercial on newscasts following the *Post-Dispatch* campaign, others adopted measures which fall short of elimination. One network, for example, divides 15 minutes of news and comment into a 10-minute program for one sponsor and a 5-minute program for another—with a station-break announcement between. The result is to move the middle commercial from the precise midpoint to the two-thirds point of the quarter-hour—and to subject the listener to two or even three interrupting impacts. Another network claims to have eliminated the middle commercial, but actually it requires that commercials be limited to the first two and the last three minutes of the 15-minute period—as a result of which the news is interrupted twice instead of once. It is clear that such devices, while they eliminate the commercial at the exact middle, fail to meet the chief listener complaint—which is that the news is *interrupted*. Some sponsors, in contrast, have made a sound asset of actual elimination of the middle commercial; their opening announcement ends with some such phrase as: "We bring you now the news—*uninterrupted*." It may well be that such emphasis upon the essentials of good programming, made explicit to listeners by appropriate announcement over the air, will do much to eliminate inferior procedures indulged in by other networks, stations, or sponsors.

(f) *The patriotic appeal.* Patriotism, especially in time of war, is an emotion near the forefront of the minds of most listeners. To misuse the listener's deepest patriotic feelings for the sale of commercial products over the air is a violation of a public trust. It is well established that the American flag shall not be used in visual advertising; [7] and the aural symbols of our national life should be similarly immune from commercialization. An example of the patriotic appeal to buy

[7] Public Law 623, approved June 22, 1942, provides: "The flag should never be used for advertising purposes in any manner whatsoever."

headache remedies is the following announcement over Station WBT, Charlotte, on September 4, 1944:

> "As every one of you well knows, the United States is face to face with a great challenge. People everywhere are seriously concerned about the Nation's all-out effort. Regardless of how or where you serve, your first duty is to keep well. Get adequate rest. Follow a reasonable diet. Exercise properly. Avoid unnecessary exposures or excesses. When a simple headache develops, or the pain of neuralgia strikes, try a BC Headache Powder. The quick-acting, prescription-type ingredients in the BC formula usually work fast and relieve in a hurry. Remember this. Get one of the 25-cent packages of BC today. You'll like the way BC eases tantalizing headaches and soothes nerves ruffled or upset by pain. USE ONLY ACCORDING TO DIRECTIONS, and consult a physician when pains persist or recur frequently."

Another announcement over the same station said in part:

> "All of us have a big job on our hands if we want to keep America the land of the free and the home of the brave. The all-out effort means hard work, and lots of it. Production must move forward—fast! * * * Get one of the 10 or 25-cent packages of BC today. * * *"

(g) *The physiological commercial.* Appeals to listeners to "take an internal bath," inquiring of the listener whether he has the common ailment known as "American stomach," discussions of body odors, sluggish bile, etc., are a distinguishing characteristic of American broadcasting.

Various networks and stations impose various restrictions on such physiological advertising. Mr. Lewis Gannett, well-known book critic, sums up listener reaction thus in the New York *Herald Tribune* for February 28, 1945:

> "The aspect of home-front life which most disgusted me on return was the radio. BBC programs may be dull and army radio programs may be shallow, but if the soldier in Europe has had a chance to hear the radio at all, he has heard it straight, without the neurotic advertising twaddle which punctuates virtually every American program. . . . The first evening that I sat by a radio at home, I heard one long parade of headaches, coughs, aching muscles, stained teeth, 'unpleasant full feeling,' and gastric hyperacidity. . . . Our radio evenings are a sick parade of sicknesses and if they haven't yet made us a sick nation, I wonder why."

According to data compiled by the Publisher's Information Bureau, more money is spent for network advertising of drugs and toilet goods than for any other products; 27.9% of all network gross billings is for such products. Drug and cosmetic advertising is said to have trebled between 1939 and 1944. The increasing identification of radio as a purveyor of patent medicines and proprietary remedies raises serious problems which warrant careful consideration by the broadcasting industry.

Professor Sandage's survey, cited above, asked various advertisers who did not use radio advertising the reason for their refraining. His study states:

> "A common reason for nonuse in a few communities was the character of advertising carried by local stations. Leading merchants commented that radio messages carried on these stations were too much like the patent medicine advertisements of pre-Federal Trade Commission days. These merchants did not wish to be associated on the air with such advertisers."[8]

(h) *Propaganda in commercials.* The commercial announcement is sometimes used to propagandize for a point of view or one side of a debated issue rather than to sell goods and services. An example is the following announcement over Station KWBU, Corpus Christi, Texas, on August 1, 1944:

> "When you see a C[entral] P[ower and] L[ight Company] lineman hanging on a pole with one foot in heaven so to speak and hear him holler 'headache', you better start running. He is not telling you how he feels but giving warning that he dropped a wrench or hammer and everyone had better look out below. The C[entral] P[ower and] L[ight Company] lineman has a tough job of keeping the electricity flowing to your home. They work night and day to keep headaches from you—to keep your lamps lit and your radio running despite lightning, floods, and storms. Only carefully trained and experienced men could do this job, but there are some in this country who think that the Government should own and operate the light and power industry. Then a lineman might hold his job for political reasons rather than for his ability to render good service to you. Business management under public regulation has brought you good reliable electric service at low prewar prices. That is the American way—let's keep it."

A second example is the following, broadcast over 12 Michigan stations in 1944:

> "American Medicine, the private practice of which represents the cumulative knowledge of decades, the heritage of centuries, the sacrifices and discoveries of countless individuals, has made the United States the healthiest country in the world. Spinal meningitis, diphtheria, smallpox, typhoid fever and other fatal diseases, scourges of yesteryear, are today either preventable or curable, a credit to the tireless efforts of the American medical profession. Thirty-seven states now have voluntary prepayment medical or hospital plans developed by the medical profession and the hospitals. *No theoretical plan, government controlled and operated, and paid for by you, should replace the tried and proved system of the private practice of medicine now in use."* [9]

On January 10, 1944, four days after the U. S. Department of Justice filed suit against the DuPont Company in connection with an alleged cartel agreement, DuPont used its commercial advertising period on the well-known

[8] Sandage, *Radio Advertising for Retailers*, p. 73.
[9] *Journal of the American Medical Association*, Vol. 127, No. 5, p. 283 (February 3, 1945). Emphasis supplied.

"Cavalcade of America" program over NBC to explain one side of a controversial issue. To quote:

> "I want to talk to you tonight about an agreement current in the news and of wide public interest. This is the agreement which the DuPont Company has had for years with a British chemical company, Imperial Chemical Industries, Ltd. It provides for a mutual opportunity to acquire patent licenses and technical and scientific information relating to important chemical developments. It has been a matter of public record and known to our government for ten years.
>
> "Literally hundreds of transfers of technical and scientific information have occurred for the advancement of chemical science and the benefit of the American people in peace and war. Agreements of a similar character, but limited to specific chemical fields have been made from time to time with continental European companies for the use of scientific data obtained from abroad. Many valuable products have resulted for the use of the American public and necessary to our armed forces. In this war, DuPont chemists have materially improved and have further developed the scientific data flowing from these contractual arrangements.
>
> "The scientific and technical information gained has contributed substantially to American progress and to the success of American arms. Many important products have resulted from these agreements to which reference may be made without disclosing military secrets. Developments were made incident to synthetic ammonia manufactured from nitrogen extracted from the air. Without this we could not have smokeless powder and TNT in anything like the quantities needed. The development of Methyl Methacrylate plastic used for the transparent enclosures to be found on every combat airplane stems from these agreements. A new process vital to quantity production of aircraft engines and a new plastic polythene, which has gone into the production of new electrical items urgently needed by the Army and Navy. Also high in this list are rayon, dyes, celophane, zelan,—water repellent for military apparel, as well as many other chemical products. All have been improved and perfected here but they came originally from abroad.
>
> "These agreements have been of the greatest benefit in giving to the American public products and processes which in the past have materially raised the standard of living, products and processes which are a part of the promise for the future of "Better Things for Better Living Through Chemistry."

(i) *Intermixture of program and advertising.* A listener is entitled to know when the program ends and the advertisement begins. The *New York Times* comment on this and related topics is here in point:

> "The virtual subordination of radio's standards to the philosophy of advertising inevitably has led the networks into an unhealthy and untenable position. It has permitted Gabriel Heatter to shift without emphasis from a discussion of the war to the merits of hair tonic. It has forced the nation's best entertainers to act as candy butchers and debase their integrity as artists. It has permitted screeching voices to yell at our children to eat this or that if they want to be as efficient as some fictional character. * * * The broadcaster often has argued that it is not his function to 'reform' the public taste, but, be that as it may, it certainly is the broadcaster's responsibility not to lower it."

The Association of Radio News Analysts has particularly inveighed against the practice of having the announcements read by the same voice as the news analysis. Article IV of the ARNA Code of Ethics provides:

> "The association believes the reading of commercial announcements by radio news analysts is against the best interests of broadcasting."

According to the president of the ARNA, John W. Vandercook:

> "ARNA has * * * consistently arrayed itself in opposition to the reading of such commercial announcements by news analysts. It is our belief that the major networks and all of the more reputable American advertising agencies are in substantial agreement with us and support our stand.
>
> "We, however, recognize and applaud the necessity for perpetual vigilance and unremitting efforts to extirpate the all-too-common breaches of these principles." (St. Louis *Post-Dispatch*, Feb. 5, 1945.)

The above is not to be taken as an exhaustive list of advertising excesses. Since it is not the intention of the Commission to concern itself with advertising excesses other than an excessive ratio of advertising time to program time, no exhaustive study has been undertaken. There is need, however, for a thorough review by the industry itself of current advertising practices, with a view towards the establishment and enforcement of sound standards by the industry itself.

IV. ECONOMIC ASPECTS

The problem of program service is intimately related to economic factors. A prosperous broadcasting industry is obviously in a position to render a better program service to the public than an industry which must pinch and scrape to make ends meet. Since the revenues of American broadcasting come primarily from advertisers, the terms and conditions of program service must not be such as to block the flow of advertising revenues into broadcasting. Finally, the public benefits when the economic foundations of broadcasting are sufficiently firm to insure a flow of new capital into the industry, especially at present when the development of FM and television is imminent.

A review of the economic aspects of broadcasting during recent years indicates that there are no economic considerations to prevent the rendering of a considerably broader program service than the public is currently afforded. Detailed statistics are found in two annual Commission publications, "Statistics of the Communications Industry in the United States", and "Financial and Employee Data Respecting Networks and Standard Broadcast Stations". Some selected and additional statistics are presented below.

The broadcast revenues shown in this report are not

identical with the expenditures for radio by all advertisers. Part of the total time sold on radio is handled by agents and brokers who customarily receive a 15 percent fee for their services. These commissions are deducted from total time sales and are not included in total broadcast revenues. However, for purposes of comparison, gross broadcast revenues before deduction of commissions on time sales are shown at the right, and the commissions are listed separately in Table 10.

Table 1 shows broadcast revenues, expenses and income of all networks and stations from 1937 to 1944. It will be noted that during the 8-year period revenues increased from $114 million to $275 million; expenses from $92 million to $185 million; and broadcast income from approximately $23 million to $90 million.

Broadcast revenues in Table 1 are defined as time sales less commissions plus incidental broadcast revenues to maintain consistency with "Statistics of the Communications Industry in the United States." Gross broadcast revenues before the deduction of commissions on time sales are given below:

Year	Gross Broadcast Revenues (before deduction of commissions on time sales).
1944	316,601,826
1943	247,715,785
1942	205,343,606
1941	194,281,378
1940	168,005,735
1939	141,287,278
1938	127,845,578
1937	131,205,866

TABLE 1

Broadcast revenues, expenses, and income of all networks and stations 1937–1944

Year	Broadcast revenues (dollars)	Broadcast expenses (dollars)	Broadcast income (dollars)	Ratio of expenses to revenues (percent)	Ratio of income to revenues (percent)
1944	275,298,611	185,025,760	90,272,851	67.2	32.8
1943	215,317,774	148,842,188	66,475,586	69.1	30.9
1942	178,839,499	134,207,261	44,632,238	75.0	25.0
1941	168,779,432	123,940,406	44,839,026	73.4	26.6
1940	147,146,717	113,850,009	33,296,708	77.4	22.6
1939	123,881,864	100,043,920	23,837,944	80.8	19.2
1938	111,358,378	92,503,594	18,854,784	83.1	16.9
1937	114,222,906	91,656,311	22,566,595	80.2	19.8

Note: Total broadcast revenues equals time sales less commissions plus incidental broadcast revenues.
Source: Annual financial reports of networks and licensees of broadcast stations.

Table 2 shows the trend, from 1937 to 1944 of broadcast expenses and broadcast income expressed as ratios to broadcast revenues. It will be noted, for example, that in 1937 the networks and stations spent 80 cents out of every revenue dollar in serving the public, and in 1938 they spent 83 cents out of each revenue dollar. Thereafter, the proportion progressively declined, until in 1944 stations and networks were spending only 67 cents out of each revenue dollar in serving the public.

Conversely, in 1937, the stations and networks retained 20 cents out of each revenue dollar as broadcast income (profit after all expenses, including depreciation charges, but before Federal income tax). By 1944, the proportion of each revenue dollar retained as broadcast income had increased to 33 cents.

Table 2 is significant in showing that the tremendous increase in profits from 1937 to 1944 (from $23 million to $90 million) was not due solely to the increase in advertising revenues but is also attributable in considerable part to the fact that the industry has progressively retained a larger and larger proportion of each revenue dollar as profit and has spent a smaller and smaller proportion for serving the public.

TABLE 2

Distribution of gross broadcast revenue dollar of all networks and radio stations

Item	1944	1943	1942	1941	1940	1939	1938	1937
Total broadcast revenue dollar (after deducting commissions)	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Total broadcast expenses	.67	.69	.75	.73	.77	.81	.83	.80
Broadcast income (before Federal income tax)	.33	.31	.25	.27	.23	.19	.17	.20

Source: Annual financial reports of networks and licensees of broadcast stations.
Explanatory Note:
Total broadcast revenues equals time sales less commissions plus incidental broadcast revenues.

Table 3 shows similar data for the major networks and their key stations.[1] It will be noted, for example, that in 1937 the networks spent 81 cents out of every revenue dollar and retained 19 cents as profit subject to Federal income tax; while in 1944, they spent 74 cents and retained 26 cents.

Table 3 also shows the breakdown of total broadcast expenses. It will be noted that the proportion of each revenue dollar devoted to technical, program, and general administrative expenses all declined between 1938 and 1944. The only increase was a 25 percent increase in the proportion of the revenue dollar devoted to sales expenses.

[1] Key stations are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. Throughout this section, data for the networks include the operations of key stations due to the fact that an adequate segregation of expenses between network operation and local station operation is not made in the annual financial reports for these stations. In 1944 there were 10 such stations; in 1943 and prior years there were 9.

TABLE 3

Distribution of gross broadcast revenue dollar of major networks and their key stations

Item	1944	1943	1942	1941	1940	1939	1938	1937
Total broadcast revenue dollar (after deducting commissions)	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Total broadcast expenses	.74	.70	.74	.71	.75	.80	.82	.81
Technical expenses	.06	.06	.07	.07	.08	.08	.08	....
Program expenses	.40	.36	.37	.36	.37	.40	.43	....
Sales expenses	.10	.09	.08	.08	.09	.09	.08	....
General and administrative expenses	.18	.19	.22	.20	.21	.23	.23	....
Broadcast income (before Federal income tax)	.26	.30	.26	.29	.25	.20	.18	.19

Explanatory Notes:
(1) "Key stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.
(2) Broadcast revenue dollar equals time sales less commissions plus incidental broadcast revenues.
Source: Annual financial reports of networks and licensees of broadcast stations.

Table 4 shows comparable data for broadcast stations having annual time sales of $25,000 or over, excluding the key stations of major networks included in Table 3.

Substantially the same trends are apparent. The proportion of the revenue dollar devoted to serving the public declined from 83 cents to 64 cents between 1938 and 1944, while the proportion retained as profit, subject to Federal income tax, increased from 17 cents to 36 cents.

With respect to the breakdown of total broadcast expenses, a very marked decline should be noted in the proportion of the revenue dollar spent for technical, program, and general and administrative expenses. The only type of expense not showing a similar proportionate decline was sales expense, which remained stable.

TABLE 4

Distribution of gross broadcast revenue dollar of radio stations with annual time sales of $25,000 or over, excluding key stations of major networks

Items	1944	1943	1942	1941	1940	1939	1938
Gross broadcast revenue dollar (after deducting commissions)	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Total broadcast expenses	.64	.68	.75	.74	.77	.80	.83
Technical expenses	.10	.11	.13	.12	.12	.13	.14
Program expenses	.23	.24	.26	.25	.29	.30	.31
Sales expenses	.10	.10	.10	.11	.10	.10	.10
General and administrative expenses	.21	.23	.26	.26	.26	.27	.28
Broadcast income (before Federal income tax)	.36	.32	.25	.26	.23	.20	.17

Explanatory Notes:
(1) "Key stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.
(2) Gross broadcast revenues equals time sales less commissions plus incidental broadcast revenues.
Source: Annual financial reports of networks and licensees of broadcast stations.

Table 5 shows broadcast income (profit after all expenses, including depreciation charges, but subject to Federal income tax) in relation to investment in tangible broadcast property.

It will be noted that in 1939, the first year for which comparable data are available, the industry earned a return of 37 percent on the original cost of its tangible broadcast property and a return of 67.1 percent on the depreciated cost. By 1944, the comparable rates of return were 108.8 percent on original cost and 222.6 percent on depreciated cost.

TABLE 5

Broadcast income, original cost and depreciated cost of broadcast property, of all networks and stations

Year	Broadcast income (dollars)	Broadcast Property Original cost to licensee (dollars)	Broadcast Property Depreciated cost (dollars)	Ratio of income to original cost (percent)	Ratio of income to depreciated cost (percent)
1944	90,272,851	82,997,650	40,552,275	108.8	222.6
1943	66,475,586	81,148,128	42,136,777	81.9	157.8
1942	44,632,238	81,259,741	46,399,909	54.9	96.2
1941	44,839,026	77,974,363	45,110,997	57.5	99.4
1940	33,296,708	70,916,312	40,055,112	47.0	83.1
1939	23,837,944	64,424,626	35,545,645	37.0	67.1

Note: Tangible broadcast property only.
Source: Annual financial reports of networks and licensees of broadcast stations.

Table 6 shows comparable data for the major networks and their key stations. It will be noted that in 1939, the first year for which comparable data are available, the rate of return (subject to Federal income tax) on the original cost of all tangible broadcast property of the networks was 75.8 percent and the rate of return on depreciated cost was 124.5 percent. By 1944 the rate of return had increased to 140.7 percent and 315.3 percent, respectively.

TABLE 6

Broadcast income, original cost and depreciated cost of tangible broadcast property, of major networks and their key stations

Year	Broadcast income (dollars)	Broadcast Property: Original cost to licensee (dollars)	Broadcast Property: Depreciated cost (dollars)	Ratio of income to original cost (percent)	Ratio of income to depreciated cost (percent)
1944	20,283,746	14,418,690	6,433,298	140.7	315.3
1943	19,455,701	13,884,632	6,645,688	140.1	292.8
1942	13,918,712	10,336,822	5,442,218	134.7	255.8
1941	14,681,993	9,934,697	5,596,815	147.8	262.3
1940	11,276,361	11,920,128	7,373,996	94.6	152.9
1939	8,371,925	11,044,985	6,725,879	75.8	124.5

Explanatory Note:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the networks programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

Source: Annual financial reports of networks and licensees of broadcast stations.

Tables 7, 8 and 9 show the trends of broadcast revenues, expenses, and income, expressed as a ratio to the 1938 figures (1938=100). 1938 has been chosen as a base because it is the first year for which comparable figures are available for these three tables.

It will be noted in Table 7 that the index of broadcast revenues of all networks and stations increased to 247 by 1944, whereas broadcast expenses increased only to 200. In other words, the increase in revenues was not devoted proportionately to an increase in expenditures for serving the public. Instead, the portion retained was sufficient to increase broadcast income, before Federal income tax, to 479 in 1944.

Table 8 shows comparable data for the major networks and their key stations. It will be noted that while the revenue index increased to 210 by 1944, total broadcast expenses increased only to 191. As a result broadcast income increased to 294.

Table 8 also shows the trend of various types of expenses. It will be noted, for example, that the program expense index increased to 196 by 1944 while sales expenses increased to 265. Sales expenses and broadcast income were the only items which increased as rapidly as broadcast revenues, and both of these items outstripped broadcast revenues by a considerable margin.

TABLE 7

Indexes of broadcast revenues, expenses, and income of all networks and stations
(1938=100)

Year	Broadcast revenues	Broadcast expenses	Broadcast income
1944	247	200	479
1943	193	161	353
1942	161	145	237
1941	152	134	238
1940	132	123	177
1939	111	108	126
1938	100	100	100
1937	103	99	120

Note: Total broadcast revenues equals time sales less commissions plus incidental broadcast revenues.

Source: Annual financial reports of networks and licensees of broadcast stations.

TABLE 8

Indexes of broadcast revenues, expenses, and income of major networks and their key stations
(1938=100)

Year	Total broadcast revenues	Total broadcast expenses	Technical expenses	Program expenses	Sales expenses	General & administrative	Broadcast income
1944	210	191	160	196	265	168	294
1943	171	146	133	143	187	143	282
1942	141	127	119	123	138	133	202
1941	135	118	114	113	147	118	213
1940	122	113	120	107	142	111	163
1939	109	106	110	102	123	106	121
1938	100	100	100	100	100	100	100
1937	103	102	N.A.	N.A.	N.A.	N.A.	106

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.
(2) Total broadcast revenues equals time sales less commissions plus incidental broadcast revenues.
(3) N.A.—not available.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 9 shows comparable data for the stations having annual time sales of $25,000 or over, excluding key stations.

It will be noted that while the broadcast revenue index increased to 271 by 1944, total broadcast expenses increased only to 210, and broadcast income before Federal income tax, increased to 564.

TABLE 9

Indexes of broadcast revenues, expenses, and income of radio stations with annual time sales of $25,000 or over, excluding key stations of major networks

(1938=100)

Year	Total broadcast revenues	Total broadcast expenses	Technical expenses	Program expenses	Sales expenses	General & admin. expenses	Broadcast income
1944	271	210	193	196	276	211	564
1943	207	171	162	158	217	175	378
1942	172	155	156	141	186	161	249
1941	160	142	141	126	175	150	245
1940	136	128	120	126	147	127	178
1939	113	110	107	106	121	111	127
1938	100	100	100	100	100	100	100

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.
(2) Total broadcast revenues equals time sales less commissions plus incidental broadcast revenues.
(3) 1937 not available on a comparable basis.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 10 provides the basic data from which Tables 1, 2, 5 and 7 were derived.

TABLE 10

Broadcast revenues, expenses, and income of all networks and radio stations 1937–1944

Items	1944	1943	1942	1941	1940	1939	1938	1937
Total revenues from time sales	287,642,747	228,102,164	190,147,052	178,091,043	154,823,787	129,968,026	117,379,459	117,908,973
Less: Commissions to regularly established agencies, representatives, brokers and others	41,303,215	32,398,011	26,504,107	24,501,946	20,859,018	17,405,414	16,487,200	16,982,960
Net revenues from time sales	246,339,532	195,704,153	163,642,945	153,589,097	133,964,769	112,562,612	100,892,259	100,926,013
Incidental broadcast revenues	28,959,079	19,613,621	15,196,554	15,190,335	13,181,948	11,319,252	10,466,119	13,296,893
Total broadcast revenues	275,298,611	215,317,774	178,839,499	168,779,432	147,146,717	123,881,864	111,358,378	114,222,906
Broadcast expenses	185,025,760	148,842,188	134,207,261	123,940,406	113,850,009	100,043,920	92,503,594	91,656,311
Broadcast income (before Federal income tax)	90,272,851	66,475,586	44,632,238	44,839,026	33,296,708	23,837,944	18,854,784	22,566,595

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 11 shows the basic data from which Tables 3, 6 and 8 were derived.

TABLE 11

Broadcast revenues, expenses, and income of major networks and their key stations

Items	1944	1943	1942	1941	1940	1939	1938	1937
Total revenues from time sales	84,068,954	71,027,292	59,400,110	56,641,686	51,636,376	45,563,368	41,249,564	40,221,667
Less: Commissions to regularly established agencies, representatives brokers, and others	20,412,869	16,547,398	13,264,832	12,669,725	11,359,577	9,819,984	8,602,950	8,491,766
Net revenues from time sales	63,656,085	54,479,894	46,135,278	43,971,961	40,276,799	35,743,384	32,646,614	31,729,901
Incidental broadcast revenues	15,374,364	9,821,644	6,710,363	6,896,697	5,724,589	5,154,307	4,939,850	6,917,850
Total broadcast revenues	79,030,449	64,301,538	52,845,641	50,868,658	46,001,388	40,897,691	37,586,464	38,647,751
Total broadcast expenses	58,746,703	44,845,837	38,926,929	36,186,665	34,725,027	32,525,766	30,687,031	31,330,024
Technical	4,825,909	4,006,907	3,599,524	3,438,731	3,619,157	3,324,123	3,023,644	N.A.
Program	31,275,990	22,778,742	19,641,290	18,051,407	17,130,034	16,315,241	15,951,971	N.A.
Sales	8,044,588	5,678,593	4,179,570	4,468,688	4,307,573	3,730,583	3,037,465	N.A.
General and administrative	14,600,216	12,381,595	11,506,545	10,227,839	9,668,263	9,155,829	8,673,951	N.A.
Broadcast income (before Federal income tax)	20,283,746	19,455,701	13,918,712	14,681,993	11,276,361	8,371,925	6,899,433	7,317,727

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

(2) N.A.—not available.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 12 shows the basic data from which Tables 4 and 9 were derived.

TABLE 12

Broadcast revenues, expenses, and income of radio stations with annual time sales of $25,000 or over, excluding key stations of major networks

Item	1944	1943	1942	1941	1940	1939	1938
Total revenues from time sales	199,916,458	153,388,120	126,829,928	117,347,121	99,063,908	81,679,851	73,609,869
Less: Commissions to regularly established agencies, representatives, brokers, and others	19,942,995	15,249,470	12,864,867	11,285,201	9,082,965	7,585,430	7,884,250
Net revenues from time sales	179,973,463	138,138,650	113,965,061	106,061,920	89,980,943	74,094,421	65,725,619
Incidental broadcast revenues	13,209,263	9,510,839	8,255,609	8,019,059	7,239,704	6,164,945	5,526,269
Total broadcast revenues	193,182,726	147,649,489	122,220,670	114,080,979	97,220,647	80,259,366	71,251,888
Total broadcast expenses	123,825,766	101,087,867	91,574,629	83,931,563	75,255,538	64,608,419	58,945,834
Technical	19,388,551	16,261,835	15,599,377	14,090,564	11,980,208	10,719,830	10,024,944
Program	43,681,312	35,206,107	31,281,064	28,045,356	27,923,610	23,664,016	22,245,023
Sales	19,116,468	15,018,982	12,850,986	12,143,927	10,211,457	8,396,325	6,925,671
General and administrative	41,639,435	34,600,943	31,843,202	29,651,716	25,140,263	21,828,248	19,750,196
Broadcast income (before Federal income tax)	69,356,960	46,561,622	30,646,041	30,149,416	21,965,109	15,650,947	12,306,054
Number of stations	807	729	689	649	568	510	476

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

(2) 1937 not available on a comparable basis.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 13 provides a breakdown of total broadcast expenses, and a further breakdown of program expenses, for the major networks and their key stations. It also shows the ratios of technical, program, sales, and general and administrative expenses to total broadcast expenses, and the ratios of various types of program expenses to total program expenses.

TABLE 13 (1)

Broadcast expense ratios of major networks and their key stations

Item	1944		1943		1942		1941	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
Total broadcast expenses	58,746,703	100.0	44,845,837	100.0	38,926,929	100.0	36,186,665	100.0
Technical	4,825,909	8.2	4,006,907	8.9	3,599,524	9.2	3,438,731	9.5
Program	31,275,990	53.2	22,778,742	50.8	19,641,290	50.5	18,051,407	49.9
Sales	8,044,588	13.7	5,678,593	12.7	4,179,570	10.7	4,468,688	12.3
General and administrative	14,600,216	24.9	12,381,595	27.6	11,506,545	29.6	10,227,839	28.3
Program expenses	31,275,990	100.0	22,778,742	100.0	19,641,290	100.0	18,051,407	100.0
Salaries and wages of program dept.	5,084,611	16.2	4,110,512	18.0	3,484,834	17.7	3,206,077	17.8
Talent expenses	11,968,337	38.3	9,030,502	39.6	6,629,024	33.8	6,343,060	35.1
Royalties	1,649,669	5.3	1,424,163	6.3	1,332,493	6.8	500,368	2.8
Wire service	6,443,423	20.6	4,889,877	21.5	5,989,981	30.5	5,811,950	32.2
Other	6,129,950	19.6	3,323,688	14.6	2,204,958	11.2	2,189,952	12.1

Explanatory Note:

"Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

Source: Annual financial reports of networks and licensees of broadcast stations.

TABLE 13 (2)

Broadcast expense ratios of major networks and their key stations

Item	1940		1939		1938	
	Dollars	Percent	Dollars	Percent	Dollars	Percent
Total broadcast expenses	34,725,027	100.0	32,525,766	100.0	30,687,031	100.0
Technical	3,619,157	10.4	3,324,123	10.2	3,023,644	9.8
Program	17,130,034	49.3	16,315,231	50.2	15,951,971	52.0
Sales	4,307,573	12.4	3,730,583	11.5	3,037,465	9.9
General and administrative	9,668,263	27.9	9,155,829	28.1	8,673,951	28.3
Program expenses	17,130,034	100.0	16,315,231	100.0	15,951,971	100.0
Salaries and wages of program dept.	3,007,435	17.5	2,690,280	16.5	2,562,444	16.1
Talent expenses	5,646,488	33.0	6,065,935	37.2	5,842,656	36.6
Royalties	738,724	4.3	586,847	3.6	548,699	3.4
Wire service	5,840,272	34.1	5,795,590	35.5	5,902,770	37.0
Other	1,897,115	11.1	1,176,579	7.2	1,095,402	6.9

Explanatory Note:

"Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 14 shows comparable data for stations having annual time sales of $25,000 or over, excluding key stations.

TABLE 14 (1)

Broadcast expense ratios of radio stations with annual time sales of $25,000 or over, excluding key stations of major networks

Item	1944		1943		1942		1941	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
Total broadcast expenses	123,825,766	100.0	101,087,867	100.0	91,574,629	100.0	83,931,563	100.0
Technical	19,388,551	15.7	16,261,835	16.1	15,599,377	17.0	14,090,564	16.8
Program	43,681,312	35.3	35,206,107	34.8	31,281,064	34.2	28,045,356	33.4
Sales	19,116,468	15.4	15,018,982	14.9	12,850,986	14.0	12,143,927	14.5
General and administrative	41,639,435	33.6	34,600,943	34.2	31,843,202	34.8	29,651,716	35.3
Program expenses	43,681,312	100.0	35,206,107	100.0	31,599,377	100.0	28,045,356	100.0
Salaries and wages of program dept.	14,920,749	34.2	11,858,289	33.7	N.A.	N.A.	8,913,741	31.8
Talent expenses	13,717,215	31.4	10,921,080	31.0	N.A.	N.A.	9,360,162	33.3
Royalties	5,085,336	11.6	4,001,609	11.4	N.A.	N.A.	2,820,539	10.1
Wire service	2,265,043	5.2	2,093,677	5.9	N.A.	N.A.	1,965,327	07.0
Other	7,692,969	17.6	6,331,452	18.0	N.A.	N.A.	4,985,587	17.8

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

(2) N.A.—not available.

Source: Annual financial reports of networks and licensees of broadcast stations.

TABLE 14 (2)

Broadcast expense ratios of radio stations with annual time sales of $25,000 or over, excluding key stations of major networks

Item	1940		1939		1938	
	Dollars	Percent	Dollars	Percent	Dollars	Percent
Total broadcast expenses	75,255,538	100.0	64,608,419	100.0	58,945,834	100.0
Technical	11,980,208	15.9	10,719,830	16.6	10,024,944	17.0
Program	27,923,610	37.1	23,664,016	36.6	22,245,023	37.7
Sales	10,211,457	13.6	8,396,325	13.0	6,925,671	11.8
General and administrative	25,140,263	33.4	21,828,248	33.8	19,750,196	33.5
Program expenses	27,923,610	100.0	23,664,016	100.0	22,245,023	100.0
Salaries and wages of program dept.	7,354,639	26.3	6,109,684	25.8	N.A.	N.A.
Talent expenses	9,562,686	34.3	8,814,725	37.3	N.A.	N.A.
Royalties	5,814,236	20.8	4,222,464	17.8	N.A.	N.A.
Wire service	1,931,354	6.9	1,655,067	7.0	N.A.	N.A.
Other	3,260,695	11.7	2,862,076	12.1	N.A.	N.A.

Explanatory Notes:

(1) "Key Stations" are those owned and operated stations of the major networks which serve as the originating points for most of the network programs. In the annual reports filed for these stations, an adequate segregation between network expenses and station expenses is not made. In 1944 there were ten such stations; prior to 1944 there were nine.

(2) N.A.—not available.

Source: Annual financial reports of networks and licensees of broadcast stations.

Table 15 is a comparison of the investment in broadcasting of the networks and stations, as of December 31, 1944, with an estimate of the public's investment in broadcast receivers as of that date.

It will be noted that the original cost of the public investment in broadcast receivers exceeds the original cost of the networks' and stations' investment in tangible broadcast property by a ratio of about 26 to 1.

TABLE 15

Original cost to the public of 53,800,000 receivers manufactured during the 8-year period prior to December 31, 1944	$2,078,000,000 [1]
Original cost of all tangible broadcast property to licensees of all stations and networks, as of December 31, 1944	82,997,650 [2]
Excess of public investment over industry investment in tangible broadcast property	$1,995,002,350

[1] *Radio & Television Retailing*, January 1945, page 21.

[2] See Table 5.

Table 16 shows a comparison of the estimated annual expenditures by advertisers for broadcast time and talent with the estimated annual cost to listeners.

It will be noted that advertisers spent an estimated 2.0 cents per day per receiver to reach listeners, while listeners spent an estimated 3.1 cents per day per receiver to hear the programs provided.

TABLE 16

Comparison of annual expenditures of advertisers to broadcasting with annual expenditures of listeners.

A. *Advertiser expenditures*	
Total expenditures of advertisers for purchase of broadcast time (after discounts but including commissions)	$287,642,747 [3]
Estimated expenditure of advertisers for program talent and other program expenses (38 percent of time sales)	109,304,244 [4]
Total expenditure of advertisers	$396,946,991
Expenditure of advertisers per receiver per year (divide above by 55,000,000)	$7.22 [5]
Expenditure of advertisers per receiver per day (divide above by 365)	.02
B. *Listener Costs*	
Cost of electricity, batteries, etc.	$200,000,000 [5]
Cost of 22,000,000 replacement tubes	25,000,000 [6]
Cost of repair parts, supplies, etc.	60,000,000 [7]
Cost of repair services	50,000,000 [8]
Average annual expenditures for purchase of receivers	297,000,000 [9]
Total bill paid by listener	$632,000,000
Cost to listeners per receiver per year (divide above by 55,000,000)	$11.49
Cost to listeners per receiver per day (divide above by 365)	.03

[3] See Table 10.

[4] "The Dimensions of American Broadcasting," by William C. Ackerman, Columbia Broadcasting System, in *Public Opinion Quarterly*, Spring 1945, page 11. Ackerman estimates talent costs at from 20 percent to 38 percent of net time sales. Cf. Borden, *The Economic Effect of Advertising* (1942), pp. 891-895, for an estimate of talent costs as 32 percent of time sales.

[5] *Radio & Television Retailing*, January 1945, page 21. This estimate based on the assumption that 55 million receivers were used an average of four hours per day, that the average power requirement was 60 watts, and that the average cost of electric power (both centrally generated and from battery sources) was 5 cents per kilowatt hour.

[6] *Ibid.*, based on data supplied by the RCA License Bureau, which receives reports from all manufacturers of tubes licensed under RCA and associated patents.

[7] *Ibid.*, based on estimates received from manufacturers.

[8] *Ibid.*, based on questionnaire replies from radio repairmen and service agencies.

[9] Based on 53,800,000 receivers manufactured after January 1, 1937. Since few receivers were manufactured during 1942 and 1943, the figure for a normal year would be much higher.

PART V. SUMMARY AND CONCLUSIONS—PROPOSALS FOR FUTURE COMMISSION POLICY

A. ROLE OF THE PUBLIC

Primary responsibility for the American system of broadcasting rests with the licensee of broadcast stations, including the network organizations. It is to the stations and networks rather than to federal regulation that listeners must primarily turn for improved standards of program service. The Commission, as the licensing agency established by Congress, has a responsibility to consider overall program service in its public interest

determinations, but affirmative improvement of program service must be the result primarily of other forces.

One such force is self-regulation by the industry itself, through its trade associations.

Licensees acting individually can also do much to raise program service standards, and some progress has indeed been made. Here and there across the country, some stations have evidenced an increased awareness of the importance of sustaining programs, live programs, and discussion programs. Other stations have eliminated from their own program service the middle commercial, the transcribed commercial, the piling up of commercials, etc. This trend toward self-improvement, if continued, may further buttress the industry against the rising tide of informed and responsible criticism.

Forces outside the broadcasting industry similarly have a role to play in improved program service. There is need, for example, for professional radio critics, who will play in this field the role which literary and dramatic critics have long assumed in the older forms of artistic expression. It is, indeed, a curious instance of the time lag in our adjustment to changed circumstances that while plays and concerts performed to comparatively small audiences in the "legitimate" theater or concert hall are regularly reviewed in the press, radio's best productions performed before an audience of millions receive only occasional and limited critical consideration. *Publicity* for radio programs is useful, but limited in the function it performs. Responsible criticism can do much more than mere promotion; it can raise the standards of public appreciation and stimulate the free and unfettered development of radio as a new medium of artistic expression. The independent radio critic, assuming the same role long occupied by the dramatic critic and the literary critic, can bring to bear an objective judgment on questions of good taste and of artistic merit which lie outside the purview of this Commission. The reviews and critiques published weekly in *Variety* afford an illustration of the role that independent criticism can play; newspapers and periodicals might well consider the institution of similar independent critiques for the general public.

Radio listener councils can also do much to improve the quality of program service. Such councils, notably in Cleveland, Ohio, and Madison, Wisconsin, have already shown the possibilities of independent listener organization. First, they can provide a much needed channel through which listeners can convey to broadcasters the wishes of the vast but not generally articulate radio audience. Second, listener councils can engage in much needed research concerning public tastes and attitudes. Third, listener councils can check on the failure of network affiliates to carry outstanding network sustaining programs, and on the local programs substituted for outstanding network sustaining programs. Fourth, they can serve to publicize and to promote outstanding programs—especially sustaining programs which at present suffer a serious handicap for lack of the vast promotional enterprise which goes to publicize many commercial programs. Other useful functions would also no doubt result from an increase in the number and an extension of the range of activities of listener councils, cooperating with the broadcasting industry but speaking solely for the interest of listeners themselves.

Colleges and universities, some of them already active in the field, have a like distinctive role to play. Together with the public schools, they have it in their power to raise a new generation of listeners with higher standards and expectations of what radio can offer.

In radio workshops, knowledge may be acquired of the techniques of radio production. There are already many examples of students graduating from such work who have found their way into the industry, carrying with them standards and conceptions of radio's role, as well as talents, by which radio service cannot fail to be enriched.

Even more important, however, is the role of colleges and universities in the field of radio research. There is room for a vast expansion of studies of the commercial, artistic and social aspects of radio. The cultural aspects of radio's influence provide in themselves a vast and fascinating field of research.

It is hoped that the facts emerging from this report and the recommendations which follow will be of interest to the groups mentioned. With them rather than with the Commission rests much of the hope for improved broadcasting quality.

B. ROLE OF THE COMMISSION

While much of the responsibility for improved program service lies with the broadcasting industry and with the public, the Commission has a statutory responsibility for the public interest, of which it cannot divest itself. The Commission's experience with the detailed review of broadcast renewal applications since April 1945, together with the facts set forth in this report, indicate some current trends in broadcasting which, with reference to licensing procedure, require its particular attention.

In issuing and in renewing the licenses of broadcast stations the Commission proposes to give particular consideration to four program service factors relevant to the public interest. These are: (1) the carrying of sustaining programs, including network sustaining programs, with particular reference to the retention by licensees of a proper discretion and responsibility for maintaining a well-balanced program structure; (2) the carrying of local live programs; (3) the carrying of programs devoted to the discussion of public issues, and (4) the elimination of advertising excesses.

(1) *Sustaining programs.* The carrying of sustaining programs has always been deemed one aspect of broadcast operation in the public interest. Sustaining programs, as noted above (pp. 29-44), perform a five-fold function in (a) maintaining an overall program balance, (b) providing time for programs inappropriate for sponsorship, (c) providing time for programs serving particular minority tastes and interests, (d) providing time for nonprofit organizations—religious, civic, agricultural, labor, educational, etc., and (e) providing time for experiment and for unfettered artistic self-expression.

Accordingly, the Commission concludes that one standard of operation in the public interest is a reasonable proportion of time devoted to sustaining programs.

Moreover, if sustaining programs are to perform their traditional functions in the American system of broadcasting, they must be broadcast at hours when the public

is awake and listening. The time devoted to sustaining programs, accordingly, should be reasonably distributed among the various segments of the broadcast day.

For the reasons set forth on pages 32-36, the Commission, in considering overall program balance, will also take note of network sustaining programs available to but not carried by a station, and of the programs which the station substitutes therefor.

(2) *Local live programs.* The Commission has always placed a marked emphasis, and in some cases perhaps an undue emphasis, on the carrying of local live programs as a standard of public interest. The development of network, transcription, and wire news services is such that no sound public interest appears to be served by continuing to stress local live programs exclusively at the expense of these other categories. Nevertheless, reasonable provision for local self-expression still remains an essential function of a station's operation (pp. 36-39), and will continue to be so regarded by the Commission. In particular, public interest requires that such programs should not be crowded out of the best listening hours.

(3) *Programs devoted to the discussion of public issues.* The crucial need for discussion programs, at the local, national, and international levels alike is universally realized, as set forth on pp. 39-40. Accordingly, the carrying of such programs in reasonable sufficiency, and during good listening hours, is a factor to be considered in any finding of public interest.

(4) *Advertising excesses.* The evidence set forth above (pp. 40-47), warrants the conclusion that some stations during some or many portions of the broadcast day have engaged in advertising excesses which are incompatible with their public responsibilities, and which threaten the good name of broadcasting itself.

As the broadcasting industry itself has insisted, the public interest clearly requires that the amount of time devoted to advertising matter shall bear a reasonable relationship to the amount of time devoted to programs. Accordingly, in its application forms the Commission will request the applicant to state how much time he proposes to devote to advertising matter in any one hour.

This by itself will not, of course, result in the elimination of some of the particular excesses described on pp. 43-46. This is a matter in which self-regulation by the industry may properly be sought and indeed expected. The Commission has no desire to concern itself with the particular length, content, or irritating qualities of particular commercial plugs.

C. PROCEDURAL PROPOSALS

In carrying out the above objectives, the Commission proposes to continue substantially unchanged its present basic licensing procedures—namely, the requiring of a written application setting forth the proposed program service of the station, the consideration of that application on its merits, and subsequently the comparison of promise and performance when an application is received for a renewal of the station license. The ends sought can best be achieved, so far as presently appears, by appropriate modification of the particular forms and procedures currently in use and by a generally more careful consideration of renewal applications.

The particular procedural changes proposed are set forth below. They will not be introduced immediately or simultaneously, but rather from time to time as circumstances warrant. Meanwhile, the Commission invites comment from licensees and from the public.

1. *Uniform Definitions and Program Logs.*

The Commission has always recognized certain basic categories of programs—e.g., commercial and sustaining, network, transcribed, recorded, local, live, etc. Such classifications must, under Regulation 3.404, be shown upon the face of the program log required to be kept by each standard broadcast station; and the Commission, like its predecessor, has always required data concerning such program classifications in its application forms.

Examination of logs shows, however, that there is no uniformity or agreement concerning what constitutes a "commercial" program, a "sustaining" program, a "network" program, etc. Accordingly, the Commission will adopt uniform definitions of basic program terms and classes, which are to be used in all presentations to the Commission. The proposed definitions are set forth below.

A *commercial program* (C) is any program the time for which is paid for by a sponsor *or* any program which is interrupted by a spot announcement (as defined below), at intervals of less than 15 minutes. A network program shall be classified as "commercial" if it is commercially sponsored on the network, even though the particular station is not paid for carrying it—unless all commercial announcements have been deleted from the program by the station.

(It will be noted that any program which is *interrupted* by a commercial announcement is classified as a commercial program, even though the purchaser of the interrupting announcement has not also purchased the time preceding and following. The result is to classify so-called "participating" programs as commercial. Without such a rule, a 15-minute program may contain 5 or even more minutes of advertising and still be classified as "sustaining." Under the proposed definition, a program may be classified as "sustaining" although preceded and followed by spot announcements, but if a spot announcement *interrupts* a program, the program must be classified as "commercial.")

A *sustaining* program (S) is any program which is *neither* paid for by a sponsor *nor* interrupted by a spot announcement (as defined below).

A *network* program (N) is any program furnished to the station by a network or another station. Transcribed delayed broadcasts of network programs are classified as "network," not "recorded." Programs are classified as network whether furnished by a nationwide, regional, or special network or by another station.

A *recorded* program (R) is any program which uses phonograph records, electrical transcriptions, or other means of mechanical reproduction in whole or in part—except where the recording is wholly incidental to the program and is limited to background sounds, sound effects, identifying themes, musical "bridges," etc. A program part transcribed or recorded and part live is classified as "recorded" unless the recordings are wholly incidental, as above. A transcribed delayed broadcast of a network program, however, is not classified as "recorded" but as "network."

A *wire* program (W) is any program the text of which is distributed to a number of stations by telegraph, teletype, or similar means, and read in whole or in part by a local announcer. Programs distributed by the wire news services are "wire" programs. A news program which is part wire and in part of local non-syndicated origin is classified as "wire" if more than half of the program is usually devoted to the reading verbatim of the syndicated wire text, but is classified as "live" if more than half is usually devoted to local news or comment.

(The above is a new program category. Programs in this category resemble network and transcribed programs in the respect that they are syndicated to scores or hundreds of stations. They resemble local live programs only in the respect that the words are vocalized by a local voice; the text is not local but syndicated. Such programs have an important role in broadcasting, especially in the dissemination of news. With respect to stations not affiliated with a network, the wire program for timely matter, plus the transcription for less urgent broadcasts affords a close approach to the services of a regular network. The only difficulty is that with respect to program classifications heretofore, the wire program has been merged with the local live program, which it resembles only superficially, preventing a statistical analysis of either. By establishing definitions for "wire commercial" and "wire sustaining," the Commission expects to make possible statistical studies with respect to such programs, and also to make more significant the statistical studies with respect to the "local live commercial" and "local live sustaining" categories.)

A *local live* program (L) is any local program which uses live talent exclusively, whether originating in the station's studios or by remote control. Programs furnished to a station by a network or another station, however, are not classified as "live" but as "network." A program which uses recordings in whole or in part, except in a wholly incidental manner, should not be classified as "live" but as "recorded." Wire programs, as defined above, should likewise not be classified as "live."

A *sustaining-public service announcement* (PSA) is an announcement which is not paid for by a sponsor and which is devoted to a non-profit cause—e.g., war bonds, Red Cross, public health, civic announcements, etc. Promotional, "courtesy," participating announcements, etc. should not be classified as "sustaining public service announcements" but as "spot announcements." War Bond, Red Cross, civic and similar announcements for which the station receives remuneration should not be classified as "sustaining public service announcements" but as "spot announcements."

A *spot announcement* (SA) is any announcement which is neither a sustaining public service announcement (as above defined) nor a station identification announcement (call letters and location). An announcement should be classified as a "spot announcement," whether or not the station receives remuneration, unless it is devoted to a nonprofit cause. Sponsored time signals, sponsored weather announcements, etc. are spot announcements. Unsponsored time signals, weather announcements, etc., are program matter and not classified as announcements. Station identification announcements should *not* be classified as either sustaining public service or spot announcements, if limited to call letters, location, and identification of the licensee and network.

The Commission further proposes to amend Regulation 3.404 to provide in part that the program log shall contain:

> An entry classifying each program as "network commercial," (NC); "network sustaining" (NS); "recorded commercial" (RC); "recorded sustaining" (RS); "wire commercial" (WC); "wire sustaining" (WS); "local live commercial" (LC); or "local live sustaining" (LS); and classifying each announcement as "spot announcement" (SA) or "sustaining public service announcement" (PSA).

The adoption of uniform definitions will make possible a fairer comparison of program representations and performance, and better statistical analyses.

2. *Segments of the Broadcast Day*

The Commission has always recognized, as has the industry, that different segments of the broadcast day have different characteristics and that different types of programming are therefore permissible. For example, the *NAB Code*, until recently, and many stations permit a greater proportion of advertising during the day than at night. The Commission's Chain Broadcasting Regulations recognize four segments: 8 a.m.-1 p.m., 1 p.m.-6 p.m., 6 p.m.-11 p.m., and all other hours. Most stations make distinctions of hours in their rate cards.

In general, sustaining and live programs have tended to be crowded out of the best listening hours from 6 to 11 p.m., and also in a degree out of the period from 8 a.m. to 6 p.m. At least some stations have improved the ratios shown in reports to the Commission, but not the service rendered the public, by crowding sustaining programs into the hours after 11 p.m. and before dawn when listeners are few and sponsors fewer still. Clearly the responsibility for public service cannot be met by broadcasting public service programs only during such hours. A well-balanced program structure requires balance during the best listening hours.

	8 a. m. 6 p. m.	6 p. m. 11 p. m.	All other hours	Total
Network commercial (NC)				
Network sustaining (NS)				
Recorded commercial (RC)				
Recorded sustaining (RS)				
Wire commercial (WC)				
Wire sustaining (WS)				
Live commercial (LC)				
Live sustaining (LS)				
Total [1]				
No. of Spot Announcements (SA)				
No. of Sustaining Public Service Announcements (PSA)				

[1] Totals should equal full operating time during each segment.

Statistical convenience requires that categories be kept to a minimum. In general, the segments of the broadcast day established in the Chain Broadcasting Regulations appear satisfactory, except that no good purpose appears to be served in connection with program analysis by calculating separately the segments from 8 a.m. to 1 p.m. and from 1 p.m. to 6 p.m. Accordingly, for present purposes it is proposed to merge these segments, so that the broadcast day will be composed of three segments only: 8 a.m.-6 p.m., 6 p.m.-11 p.m., and all other hours.

The categories set forth above, plus the segments herein defined, make possible a standard program log analysis as in the form shown on page 57.

The above schedule will be uniformly utilized in Commission application forms and annual report forms in lieu of the various types of schedules now prevailing. In using it, stations may calculate the length of programs to the nearest five minutes.

(3) *Annual Reports and Statistics*

For some years, the Commission has called for a statement of the number of hours devoted to various classes of programs each year, in connection with the Annual Financial Reports of broadcast stations and networks. Requiring such figures for an entire year may constitute a considerable accounting burden on the stations, and may therefore impair the quality of the reports. Accordingly, the Commission proposes hereafter to require these data in the Annual Financial Reports only for one week.

To make the proposed week as representative as possible of the year as a whole, the Commission will utilize a procedure heretofore sometimes used by stations in presentations to the Commission. At the end of each year, it will select at random a Monday in January or February, a Tuesday in March, a Wednesday in April, a Thursday in May or June, a Friday in July or August, a Saturday in September or October, and a Sunday in November or December, and will ask for detailed program analyses for these seven days. The particular days chosen will vary from year to year, and will be drawn so as to avoid holidays and other atypical occasions.

The information requested will be in terms of the definitions and time periods set forth above. Statistical summaries and trends will be published annually.

The Commission will also call upon the networks for quarterly statements of the stations carrying and failing to carry network sustaining programs during a sample week in each quarter.

(4) *Revision of Application Forms*

Since the establishment of the Federal Radio Commission, applicants for new stations have been required to set forth their program plans, and applications have been granted in part on the basis of representations concerning program plans. Applications for renewal of license, assignment of license, transfer of control of licensee corporation, and modification of license have similarly included, in various forms, representations concerning program service rendered or to be rendered. The program service questions now asked on the Commission's application forms are not uniform, and not closely integrated with current Commission policy respecting program service. It is proposed, accordingly, to revise the program service questions on all Commission forms to bring them into line with the policies set forth in this report.

Specifically, applicants for new stations will be required to fill out, as part of Form 301 or Form 319, a showing of their proposed program structure, utilizing the uniform schedule set forth on page 57. Applicants for renewal of license, consent to transfer of assignment, and modification of license will be required to fill out the same uniform schedule, both for a sample week under their previous licenses, and as an indication of their proposed operation if the application in question is granted.

The Commission, of course, recognizes that there is need for flexibility in broadcast operation. An application to the Commission should not be a straitjacket preventing a licensee from rendering an even better service than originally proposed. To provide the necessary flexibility, the information supplied in the uniform schedule will be treated as a responsible estimate rather than a binding pledge. However, attention should be called to the fact that the need for trustworthiness is at least as important with respect to representations concerning program service as with respect to statements concerning financial matters.

Stations will also be asked whether they propose to render a well-balanced program service, or to specialize in programs of a particular type or addressed to a particular audience. If their proposal is for a specialized rather than a balanced program service, a showing will be requested concerning the relative need for such service in the community as compared with the need for an additional station affording a balanced program service. On renewal, stations which have proposed a specialized service will be expected to show the extent to which they have in fact fulfilled their proposals during the period of their license.

Stations affiliated with a network will further be required to list network sustaining programs not carried during a representative week, and the programs carried in place of such programs.

If the Commission is able to determine from an examination of the application that a grant will serve the public interest, it will grant forthwith, as heretofore. If the Commission is unable to make such a determination on the basis of the application it will, as heretofore, designate the application for hearing.

(5) *Action on Renewals*

With the above changes in Commission forms and procedures, the Commission will have available in connection with renewal applications, specific data relevant to the finding of public interest required by the statute.

First, it will have available all the data concerning engineering, legal, accounting and other matters, as heretofore.

Second, it will have available a responsible estimate of the overall program structure appropriate for the station in question, as estimated by the licensee himself when making his previous application.

Third, it will have available affirmative representations of the licensee concerning the time to be devoted to sustaining programs, live programs, discussion programs, and advertising matter.

Fourth, it will have available from the annual reports to the Commission data concerning the actual program structure of the station during a sample week in each year under the existing license.

Fifth, it will have available a statement of the overall program structure of the station during a week immediately preceding the filing of the application being considered, and information concerning the carrying of network sustaining programs.

Sixth, it will have available the station's representations concerning program service under the license applied for.

If the Commission is able to determine on the basis of the data thus available that a grant will serve the public interest, it will continue as heretofore, to grant forthwith; otherwise, as heretofore, it will designate the renewal application for hearing.

U. S. GOVERNMENT PRINTING OFFICE : O—1950